

Short-Term Housing Discussion Paper

Rental Accommodations Regulation Study

The screenshot shows the HomeAway website interface. At the top, there's a search bar with 'Ottawa, ON, Canada' entered, and dates '19-05-22' to '19-05-24'. Below the search bar, there's a map of Ottawa with several blue location pins. To the left of the map, there's a list of property listings. The first listing is '3 Bedroom Century Apartment - Downtown - PERFECT f...' with a price of '\$160 per night'. Below the map, there's a section titled 'Where to stay' with a grid of property images and descriptions. The descriptions include details like 'Modern Studio - Centrally Located - Free Parking', 'Cozy One Bedroom - Steps to Byward Market', 'Studio 1br - Byward Market / Downtown', 'Luxury Home in Prime L...', 'Ottawa's Golden Triangle Haven!', 'Prime Downtown Location - Chic 1 Bedroom by Bank St', 'Cozy Micro-Suite - Byward Market', and 'Heart of Downtown Ottawa 1 Bedrm Apt (9-...'.

Addressing Ottawa's Housing Crisis
By Applying Toronto's Short-Term Rental Rules,
Airbnb Would Have to Remove 1,328 Non-Compliant
Listings; Up to 1,054 Entire Homes Could be Added to
Ottawa's Long-Term Housing Supply

fairbnb.ca
FAIR RULES FOR SHORT-TERM RENTALS

FAIRBNB.CA Coalition

Maclaren Municipal Consulting Inc.
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1 Review Mandate

The City of Ottawa has retained Maclaren Municipal Consulting to complete a comprehensive analysis of Ottawa's rental accommodation regulations for the Emergency and Protective Services department. This study is limited to By-laws/ Regulations for rental accommodations, excluding social housing, residential care homes, and long-term care homes. Land-use planning mechanisms and social programs will not be addressed through this report. However, any issues or opportunities identified in these areas will be referred to the appropriate authority through the inter-departmental Rental Accommodations Working Group established for this purpose.

This review is based upon the following guiding principles:

1. Health, Safety and Well-being of the Public: Maintaining consistent standards to preserve health and safety.
2. Protection of Property and Persons, including Consumer Protection: Considering how regulations influence the quality, availability, and affordability of rental accommodations.
3. Foster the economic and social well-being of the municipality.
4. Efficient, effective and sustainable enforcement.

The Review will examine regulation of:

- Short-term Rentals,
- Student Housing, and
- Private market housing conditions, in apartments and rooming houses.

This Paper also discusses the current and potential future regulatory approach to Short-term Rentals of housing. Two other Discussion Papers dealing with the other topics are also available at Ottawa.ca.

2 Introduction – Short-term Accommodation and the Sharing Economy

Short-term accommodation refers to accommodation of the travelling public, both tourists and business travellers. A common definition is stays of less than 30 days. This definition is employed in Ottawa's Zoning By-law, and is also used by federal regulations to define when GST/HST is charged.¹

¹ Harmonized Sales Tax is not charged on long-term residential rentals, defined as 30 days or more.

Traditionally, service to the travelling public has been the business of hotels and motels. It has also been a long-standing income option for home-owners and long-term renters. Ottawa residential zoning rules allow any property to be used as a bed and breakfast by its principal resident (currently to a maximum of three rooms in a residence). Actual service of breakfast is not required. The inclusion of the word breakfast allows the provision of a breakfast package without bringing a home kitchen under the more rigorous health rules governing restaurants.

As with other industries, the growth of the Internet has allowed new business models in short-term accommodation that are both convenient and disruptive. Firms like Airbnb, HomeAway and VRBO² provide websites where travellers can find a variety of accommodations ranging from traditional bed and breakfasts, to simple rooms, to entire houses or apartments. Providers of short-term accommodation provide their listings. The website service receives the booking payment, and retains a booking fee or a percentage for itself.

Users of the service rate each other as hosts, and as guests. As with other Internet-based services, such as Amazon, the use of rating systems provides a positive discipline on both parties. Past ratings may be viewed by other guests and hosts.

It is also in the interest of the web service to offer some degree of policing to ensure that identities are real and that the accommodations offered are real. Credit cards and the credit system are the principal means of identification. Hosts and guests can be delisted for misbehaviour. An operating challenge for web services is to avoid bad actors re-listing under a different identity with a different credit card, although they can avoid a re-listing of the same address. Services like Airbnb also offer varying levels of certification of hosts. An Airbnb “Superhost” is experienced and has received consistently high ratings from guests. Data is also provided to guests on a host’s past practices. Key indicators are the average speed of return of a contact, and frequency that a host has cancelled bookings at the last moment. An experienced guest will review the individual comments by past guests, in addition to viewing the average numerical ratings of a host. Individual hosts may choose to offer instant booking after acknowledging any house rules. Instant booking means not having to wait for a reply and confirmation of your booking.

As part of this business model, services like Airbnb and HomeAway receive and hold the guest’s payment, remitting payment to the owner and retaining their portion of the fee. The involvement in the transaction makes this service very different from listing services like Kijiji or Craigslist. Listing services generate their revenue from advertising on the web page and/or from fixed fees charged to place a notice.

² VRBO was originally an acronym for Vacation Rental by Owner. The VRBO site is currently owned by HomeAway, a consolidator who has purchased and integrated several web sites of this nature.

2.1 Anonymity a Necessary Feature of Business Model

Another necessary feature of the web services like Airbnb and HomeAway is a degree of anonymity. Guests and hosts may not communicate directly until the booking fee or advance deposit has been paid. This prevents guests and hosts from using the service, and then making a direct deal with each other that bypasses the web-service. The anonymity covers both identity and location. The general neighbourhood of a host address will be shown, but not the address itself.

The anonymity has the side effect of making enforcement by regulators difficult; an issue discussed further below. Similarly, landlords may not be aware that their tenant is putting all or part of their property on the short-term rental market.

2.2 Rapid Growth

The convenience of short-term rental web-sites has led to rapid growth around the world and in Ottawa. It is much easier for residents to put a room or property on the web-site, with instant access to a wide market. Prior to the Internet, bed and breakfast operators faced significant costs in making their availability known. Now anyone can list by filling out an online form. The convenience is also strong for guests. Guests can locate accommodations in specific locations that are either cheaper, or offer unique benefits of a local host or other searchable features. Business travellers can filter their selection according to Internet access, ironing boards, and other business conveniences.

A background study conducted for the City of Ottawa found that listings on Airbnb and HomeAway grew 83% from August 2015 to December 2018. Looking exclusively at short-term listings – the growth rate was 254%³. Other findings for this period included:

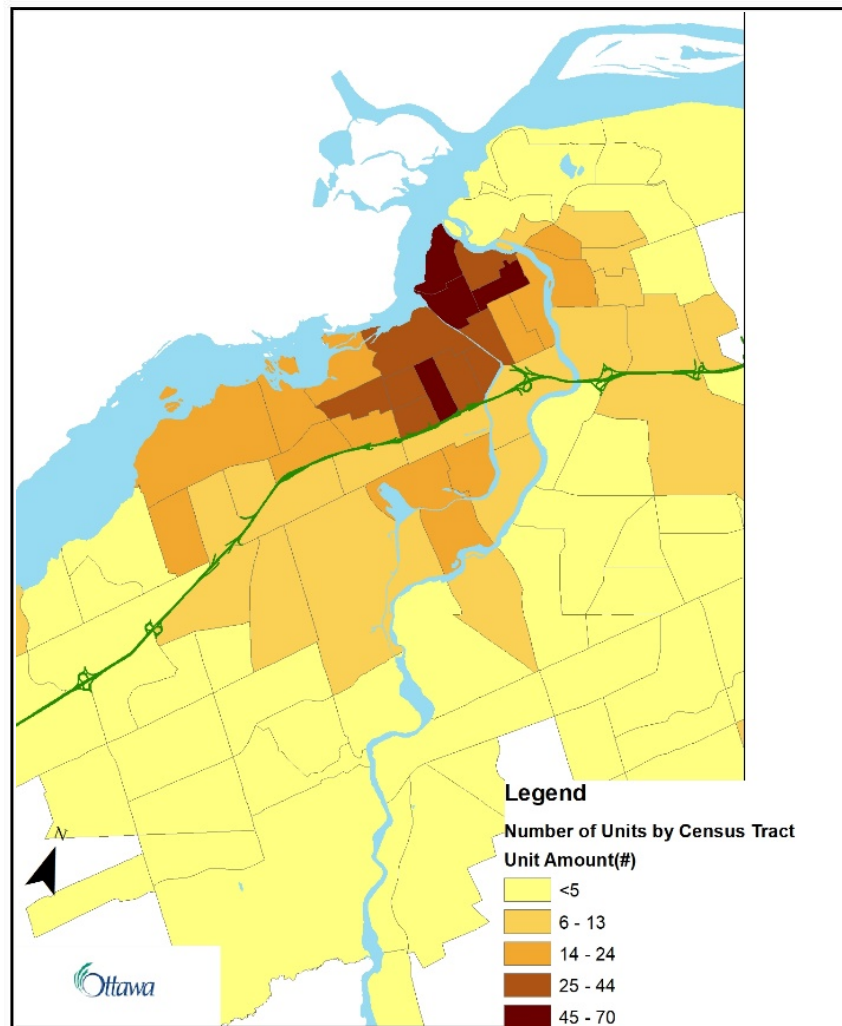
- The majority of short-term rentals were apartments.
- Short-term rentals are concentrated in areas of interest to tourists; they have a low market penetration outside those areas.
- Approximately 1.2% of apartments (excluding purpose built rental units) were used for short-term rentals, up from 0.4% in 2016.
- Short-term rentals are being listed for longer periods. The number of units being rented for more than 120 days per year doubled from 10% in 2016 to 20% in 2018.

While the study found that growth rates were stabilizing, continued strong growth may be expected. Most of the increase in listing occurred in 2017; a peak year for tourism due to the 150th anniversary of Confederation. However, the level of short-term listings has not dropped appreciably in 2018.

³ *City of Ottawa Rental Market Analysis*. PRISM Economics and Analysis (2019) for the City of Ottawa.

Short-term rentals are also concentrated in areas attractive to tourists. Figure 1, reproduced from the rental market analysis report⁴, shows the concentration of short-term rental units in the downtown area.

Figure 1 - Concentration of Short-term Rental Units Downtown



Map from *City of Ottawa Rental Market Analysis*. PRISM Economics and Analysis (2019) for the City of Ottawa.

2.3 Complaints and Concerns

The growth of short-term rental activity has raised new issues for Ottawa and other cities. Although bed and breakfasts are a permitted use in residential zones, the short-term rental of whole living units, such as a flat in an owner-occupied house, or in an apartment building, is not a

⁴ Ibid.

permitted use in residential areas in Ottawa. In the past, practical difficulties in managing a high turnover made this question largely moot. However, the existence of services like Airbnb and HomeAway has made this possible and convenient. This results in contraventions of the zoning rules in certain neighbourhoods. Does this mean the zoning rules are out of date? Or is this a new issue that requires regulation and enforcement?

The types of complaints that have received significant media coverage include:

- **Party houses.** Whole units are rented in residential areas for the purposes of parties, the accommodation of visiting sports teams, post-prom parties, or other mass events. A disregard for the neighbourhood may include excessive noise, drunkenness, garbage left outside, and behaviour that raises personal security concerns for the neighbors.
- **Violation of Apartment or Condominium Rules.** Most apartments and condominiums restrict the rental of units to long-term tenants. In addition, Ontario's Residential Tenancies Act requires permission of the landlord for a tenant to sublet their rental unit; although the Act is less clear about renting rooms within a unit while the tenant remains an occupant.

Short-term guests with high turnover may place a burden on facilities, even when well behaved. For example, pools and other common facilities may be used more intensively by vacationers, crowding out residents. There is also a tendency of short-term guests to have less regard for their neighbours regarding noise and care of the property. Guests staying at short-term rentals may be asked by the host to disguise the nature of their visit – perhaps retrieving keys from a lock box attached to a nearby street bench.

- **Landlords unknowingly losing control.** An owner of a property may have leased to a long-term tenant, and be unaware that the tenant is renting the unit out on the short-term accommodation market. The anonymity of listings on the sites makes this difficult to know if the landlord is not present in the building. Thus owners of condominiums may be complying in good faith with their condominium rules, only to discover that their property is being used otherwise, with greater wear and tear and risk of liability.
- **High traffic and loss of neighbourhood peace and enjoyment.** Hotels are not a permitted use in residential zones. The presence of short-term rental houses or apartments has led to the pejorative term “ghost hotels”. Long term residents in a neighbourhood or building may be constantly dealing with enquiries by lost guests, noise in the hallways, late night noise, and shifts from neighbourhood standards of behaviour that may leave residents feeling unsafe.
- **Anonymous agents.** It may be difficult to identify who is responsible for managing a property when issues arise. Listings do not include identifying information. Agents who manage listings on Airbnb or HomeAway may not be the owners, and may not

even be in the same city or country. They may employ a house-keeping service or other services to assist with turn-over – but this may not amount to the same time and attention as a fully supervised property or hotel. There is no front-desk.

- **Commodification of private residences.** Another concern is the number of individual properties listed by a common agent. Fairbnb, an organization calling for stronger controls on short-term rentals, found that one of Ottawa’s top Airbnb hosts, “Genevieve”, was managing 76 units.⁵ While the use of agents can be legitimate, this concern goes hand-in-hand with the fear that neighbourhood homes are being bought up as an international commodity and being managed by indirect ownership that has little commitment to the neighbourhood, and rented to short-term guests who also lack the long-term commitment of residents. Even when well managed, there is concern about the dilution of the social fabric of the neighbourhoods as they become less occupied by actual residents.

It is difficult to know the degree to which these reports represent exceptional stories, or are a large quantitative issue. One potential data source to lend perspective is the log of 3-1-1 property complaints received by the City of Ottawa. Over a 10 year period, the City received 103,118 complaint calls, of which approximately 18,789 were related to rental properties. Complaints involving mention of Airbnb began occurring in 2015 as per Table 1. The substantial majority of these complaints involved garbage left outside, and the exterior condition of the property.

Table 1 - Count of Ottawa 3-1-1 Property Complaints Mentioning Airbnb

Year	Count
2015	3
2016	4
2017	38
2018	86

Two points are evident from Table 1. One is that the number of complaints is increasing rapidly, although a part of this may be due to higher awareness. The second point is that the number is not very large, even in 2018. By comparison, the City averages 1,879 rental property complaints per year. In 2018, there were 4,091 complaints about exterior debris and waste. Thus, Airbnb complaints in 2018 (largely about exterior debris and waste) were in the order of 2% of complaints, while representing about 1.2% of rental apartments (excluding purpose-built rentals). This suggests a higher incidence of issues with Airbnb properties, but not a huge number in total. We should also note that complaint details may attribute other web-listing services to Airbnb, since the actual listing service is not easy to identify, and Airbnb may receive attribution simply because it is the most well-known.

⁵ *Addressing Ottawa’s Housing Crisis*. FAIRBNB.CA Coalition (2019). Page 2.

A third point is that, based on a review of the text of the complaints, the vast majority involved the allegation that the owner of the property was not resident or attending to the property. This has implications for the types of short-term rental that Ottawa may wish to regulate.

The City of Toronto recently reported similar numbers from its 3-1-1 complaints. Complaints involving short-term rentals rose from nine in 2010 to 317 in 2018, with the majority of growth in the last two years. Again, there is a marked increase, but low overall magnitude.⁶

3 Impacts of Growth in Short-Term Accommodation

3.1 Impact on Incomes of Ottawa Residents and Property Owners

One impact of short-term accommodation sites is to provide additional income to Ottawa residents and property owners. An Ottawa resident who wished to rent a room in their house, or a flat in their property, always had the opportunity to do so through long-term rentals. However, those who wish to put in the additional effort to manage the high turnover of short-term rentals, now have the option to earn extra income in the higher paying market of short-term rentals. For Ottawa property owners, estimated gross revenue from bookings was \$39.8 million in 2018 (see discussion of Table 2 further below).

Reasons for offering short-term rentals vary. Potential examples include:

- Retirees who have a large home, a need for extra income, and time to manage or perform the tasks related to short-term rentals.
- New home buyers who use the additional income to pay for a house or condo they would otherwise not be able to afford. This may include more mature buyers who may incorporate renovations to create separate units or coach houses on the new property.
- People who wish to cover some of the costs of their out-of-town accommodation while on vacation.
- People who work in more than one city, or have long distance relationships, can off-set the costs of keeping two houses.
- People with seasonal second residences.
- Property owners who simply desire to earn more income.

The additional costs of operating short-term rentals include cleaning the unit between guests, supplying amenities, additional laundry, checking the unit between visits to ensure it was well treated between guests, answering guest inquiries (Where is a good place to eat? Where is the

⁶ <https://www.cbc.ca/news/canada/toronto/311-complaints-short-term-rentals-1.5118676>

ironing board? What is the Wi-Fi password?, etc.) There may also be increased depreciation of the property, insurance, and higher utility bills.

Not all those who list their properties find the income worth the effort. As Airbnb representatives note, not all listings are rented. Some withdraw when the reality of hosting a guest sinks in, while others are in the market for only a short while. The wide variety of asking prices on web-site listings suggests a market where new entrants try low prices that are not sustainable, while longer term hosts are able to cover their costs and continue to attract guests despite quoting higher rates.

There is another class of Ottawa property owners which is the focus of concern by those who oppose or seek to limit short-term rental activity. These are property owners who are not resident in the property that is listed. These may range from an Ottawa resident with one or two additional properties, to corporations holding ownership of a portfolio of condominiums rented out to the short-term market. Non-resident owners listing short-term rentals seem more likely to be the cause of 3-1-1 complaints.

The extent of non-resident owners listing is not clear, although media reports and anecdotal evidence suggests that the number is significant. When a whole unit or flat is offered for short-term rental, it may also be the permanent residence of someone on vacation, or periodically away from their home. The original idea behind VRBO (Vacation Rental By Owner) was for individual owners to rent either their primary residence or summer residence when not using the property themselves. Those who go south for the winter (often termed *snow birds*) may rent out their Ottawa residences during the winter. During the summer, students with long term leases may wish to rent their apartments or flats while returning to their parent's city or travelling. These hosts may prefer to rent to long-term guests. However, there are a few guests who are looking for more than 30 days, but less than a permanent residence. As a result, hosts will turn to the short-term rental market.

Because of the necessary anonymity of short-term rental listings, determining the number of non-resident listings is challenging. One approach is to look at the longevity of listings. For example, a whole unit that is listed year round is likely not to be occupied by the owner. The rental market analysis for the City used a threshold of 120 days (approximately 4 months) to suggest a commercial short-term rental. Table 2 below reports the estimates for listing in 2016, 2017 and 2018.⁷ In addition to the overall growth in listings from 2016 to 2018, it is apparent that the percentage of units that appear to be more commercial in nature is rising from 10.1% to 19.7% of total listings. As noted earlier, these numbers may include units that have a principal residence but whose owner is absent longer – such as the maximum 6 months that snow birds may be out of the country without losing their full health insurance coverage. However, the general trend towards

⁷ *Addressing Ottawa's Housing Crisis*. FAIRBNB.CA Coalition (2019).

higher participation by commercial short-term rental of properties that are not a principal residence, appears clear.

Table 2 - Short-Term Rental Listings 2016-2018

Year	Total Listings	Listings of whole units for 120 days or more	Revenue (\$millions)	Listings of whole units for 120+ days as % of Total Listings
2016	3,434	349	\$11.7	10.1%
2017	6,286	980	\$31.4	15.6%
2018	6,278	1,236	\$39.8	19.7%

It should also be noted that a count of listings overestimates the number of actual nights rented. As noted earlier, listings often include periods that do not get rented, or are withdrawn when booked, or cancelled after they are booked.

Another approach is to measure the number of whole units that are part of multiple listings under the same host. This measure is also not exact since it is possible for an agent to be acting on behalf of an individual resident property owner. For example, a snowbird who rents out their furnished home every winter may prefer to use an agent to screen selected guests and to manage the property over the winter. An individual who makes a business of serving these individuals may have multiple listings on a web-site, each belonging to an actual resident owner.

Alternatively, a single listing may be by a non-resident owner with only one unit to list. There will be individuals who invest in one unit that is not part of the property in which they live. This means a count of multiple listings may also underestimate the number of non-resident hosts.

3.2 Impact on Traditional Hotel Industry

Is the income gain by Ottawa property owners offset by a loss of income to Ottawa's traditional hotel sector? A concern in principal is that the opening of a new source of supply, some at lower prices, would result in a sudden fall of bookings in traditional hotels, and the social waste of unutilized hotel capacity. However, this does not appear to have occurred in Ottawa.

A measure of the health of the hotel industry is the proportion of rooms that are booked on average. This will never be 100%, since it is desirable for a city to have enough hotel capacity to meet peak demand, resulting in empty rooms the rest of the time. This need is met by the hotel industry through room pricing that varies by time of year and capacity – with the cost of empty rooms recovered by higher prices during peak demand. The slack capacity during the balance of the year is also a cause for the highly variable pricing schemes, and continuing evolution of web services designed to find the best price for a given room.

Average Ottawa hotel occupancy is reported at 72% in 2016, peaking at 75% during Canada's 150th anniversary in 2017, and falling back to a still healthy estimate of 74% in 2018.⁸ This compares well with the national averages reported at 64% in 2016, and an estimated 66% in 2018.

Ottawa hotel occupancy rates do not appear to have suffered over the 2016-2018 high growth period of listings on short-term rental web-sites. Either the short-term rentals through web-sites are sharing in a general growth in travel, or they are meeting the needs of a market segment that had not previously been fully met.

This relatively healthy situation is acknowledged by the Ottawa Gatineau Hotel Association. However, the Hotel Association remains concerned about the ongoing investment climate for building and renewing hotel capacity in the face of competition from a new sector they see as not paying the same compliance costs in taxes and various health and safety regulations that are paid by commercial hotels operating in commercial zones in compliance with zoning requirements.

The recent Ottawa collection of the Municipal Accommodation Tax (MAT) addresses only a part of this issue. The MAT is a new tax on short-term rentals authorized by the provincial government. In Ottawa it is collected to support programs such as destination development, administered through the Ottawa Tourism and the Hotel Association. At present the tax is also collected from Airbnb, although Airbnb is the only one of the active web-services listing Ottawa properties that collects the tax. The Airbnb contribution goes to the City; however, not to the Hotel Association. There remains the question of other taxes, such as GST/HST, and the operation of listed properties in residential zones. There are also other regulations – such as providing fire escape routes and other measures that apply to buildings with six bedrooms or more, serving the travelling public.

In theory, these concerns apply equally to the traditional bed and breakfast use that has always been a right of property owners in residential zones. However, the magnitude of the challenge has grown with the convenience of web-site listing services. The Hotel Association and others draw a distinction between commercial operations (ghost hotels) where the property is not someone's principal resident, and other Airbnb hosts. Among the suggested controls are limiting the total number of days rental to 90 days – a proposal that is also voiced by Fairbnb, an alliance in which the Hotel Association participates. However, such a regulation may simply require a host to list on more than one platform so they can rent out 90 days on each.

3.3 Impact on Tourism and Business Travel

Tourism, conferences, and business travel are economic driving forces for most cities. Ottawa is no exception. Do short-term rentals through listing services add to the volume of visitors? Of the

⁸ CBRE Accommodation Industry Outlook 2018-2019. CBRE Hotels.

money spent by visitors, does a greater or lesser proportion stay in the City relative to traditional hotel bookings?

As the volume of short-term rental web-listings grows, so does the associated employment income by hosts and their support services, and the associated volume of expenditures within the City by guests.

For example, Airbnb conducted an economic impact study for its activities in Montreal in 2017.⁹ Host earnings in Montreal, and direct and indirect purchases by hosts to provide their hospitality, supported 468 full time equivalent jobs, with a gross value added to the GDP of \$43.9 million. Visitor spending from an estimated 2.6 million guest-nights was an estimated \$475 million, supporting an estimated 5,079 jobs. Similar estimates are available for Toronto and Vancouver, with results proportionate to Airbnb's presence in those cities and years.¹⁰ Such a study is not yet available for Ottawa.

The economic impact studies indicate the growing number of citizens in each city who are already directly or indirectly dependent on business generated by Airbnb and other platforms for income and employment. However, critics point out that these are gross estimates of income flows most of which would have gone through the traditional hotel industry in the absence of short-term rental services. As an industry leader, Airbnb is the focus of much of the debate.

A critique by the Economic Policy Institute of US studies cites surveys indicating that only 2 to 4 percent of those using Airbnb say they would not have taken the trip were Airbnb rentals unavailable.¹¹

Airbnb's economic impact studies acknowledge this criticism, but offer higher estimates of the degree of *net* increase in jobs and visitor spending. For example:

- In their Montreal economic impact study, Airbnb's surveys suggested 3.8% of travellers would not have come to Montreal in the absence of Airbnb. However, the survey also found that 75.3% of travellers believed that Airbnb's offerings made them more likely to travel to Montreal than if they had to rely on other accommodation options. The study also states that, since Airbnb occupies 20% of the Montreal market, the existing hotel capacity could not necessarily accommodate all travellers in the absence of Airbnb. Based on these observations, the Airbnb study attributes 50% of the economic impact of Airbnb in Montreal to a *net* gain.

⁹ *Economic Impact of Airbnb's activity in Montreal – 2017*. GLSRESEAU, July 2018. For Airbnb.

¹⁰ *2015-2016 Vancouver Economic Impact Report*. Airbnb.; and *Toronto – Economic Impact Statement*. UrbanMetrics for Airbnb. Feb. 2017.

¹¹ *The economic costs and benefits of Airbnb*. Josh Bivens. Economic Policy Institute, January 2019.

- In the Toronto Airbnb study, guest surveys indicated that 2.3% of travellers would not have made the trip in the absence of Airbnb's offerings. In addition, comparative data to other Toronto travellers suggested Airbnb guests travel in larger groups and tend to stay in the location slightly longer. In the guest survey, 32% of guests indicated that they would not have stayed in Toronto as long. Based on these observations, the Toronto net economic benefits were based on 32% of guests staying one day longer; representing \$40 million additional guest spending in Toronto that year.

While quantitative estimates may vary, it is clear that Airbnb and similar companies already represent significant employment in Canadian cities, and are a significant part of the overall accommodation capacity. It is also clear that there is *some* additional traveller visit/days generated by:

- The less expensive options offered by the range of short-term rental web-service offerings.
- The variety of accommodation experience offered by the local listings. This may include (not in all cases) better contact with a local host, the cultural experience of staying in a local home and neighborhood, and the boutique character of small offerings. These are some of the same attractions that have been traditionally offered by bed and breakfasts.
- The addition to total capacity of a city helps meet peak travel periods generated seasonally and by special events.

The economic impact studies do not provide enough information to address the question of whether more or less of a traveller dollar is spent locally when comparing traditional hotels to short-term listings through web-sites. Services like Airbnb collect booking fees and/or a percentage of revenue from bookings. However, hotel rooms booked through services like Expedia or Booking.com also collect fees, and most hotels also pay a franchise fee to a chain. In either case these fees represent a proportion of the traveller dollar that is not retained or spent locally. Similarly, hotels employ staff while short-term rentals via the web employ the hosts, and any services hosts purchase (e.g. cleaning, maintenance, property management). Hotels may be largely owned by corporations outside the city, while some proportion of web-listings are also corporate and may not be locally based.

A broader question is what is the most efficient way for a city to organize its accommodation industry? The traditional hotel industry maintains and supports excess capacity in order to meet peak demand periods. This also means, through complex pricing mechanisms, the potential availability of cheaper rooms in off-peak periods. An alternative places greater reliance on private properties listed for short-term accommodation to provide the flexible capacity to meet peak demand seasons. In this alternative, it may be that hotel occupancy rates rise on average as the hotels concentrate on the core stable demand year-round. At the same time, this could mean significant change to traditional hotel pricing structures, and fewer hotel bargains to be found.

3.4 Impact on long-term rental housing supply

Ottawa is facing an increasing shortage of long-term rental housing. A recent study undertaken for the City of Ottawa¹² found that while the supply of rental units has increased by approximately 1% between 2016 and 2018, the population living in rental units has increased at a faster rate, of 2.9%. The growing shortage is also reflected in rents. Over the same period, average apartment rents have risen 7.8% and house rents by 11.3%. Another way of viewing the current shortage of rental housing is the difference between average rents and the asking rates for vacant units. In 2018, the average rent for a two bedroom Ottawa apartment was \$1,335, while the asking rent for listed vacant two bedrooms was 25% higher at \$1,674. This is an outcome of rent control that limits the rental hike for continuing tenants, but does not control the rents charged to new tenants.

If the present rate of growth in rental housing stock continues (approx. 5,600 units per year), the report forecasts a gap in 2031 of approximately 18,000 to 19,000 units relative to the households trying to settle in Ottawa. In this scenario, average apartment rents would be expected to rise by as much as 41%, and the number of households living in unaffordable dwellings would increase by 25,000.

Whether this scenario materializes depends on whether new construction of rental units will exceed past rates. New construction can come from either the private sector responding to higher rents by accelerating the construction of units, from home owners adding basement units and coach houses to their properties, or from the construction of social housing (e.g. non-profit and cooperative housing).

There are some signs of supply responses by the Ottawa private sector. Figure 2, reproduced from the housing forecast, shows an uptick in purpose built rental housing starts over the most recent years, and a general shifting away from the previous focus of condo development.

¹² *City of Ottawa Rental Market Analysis.*

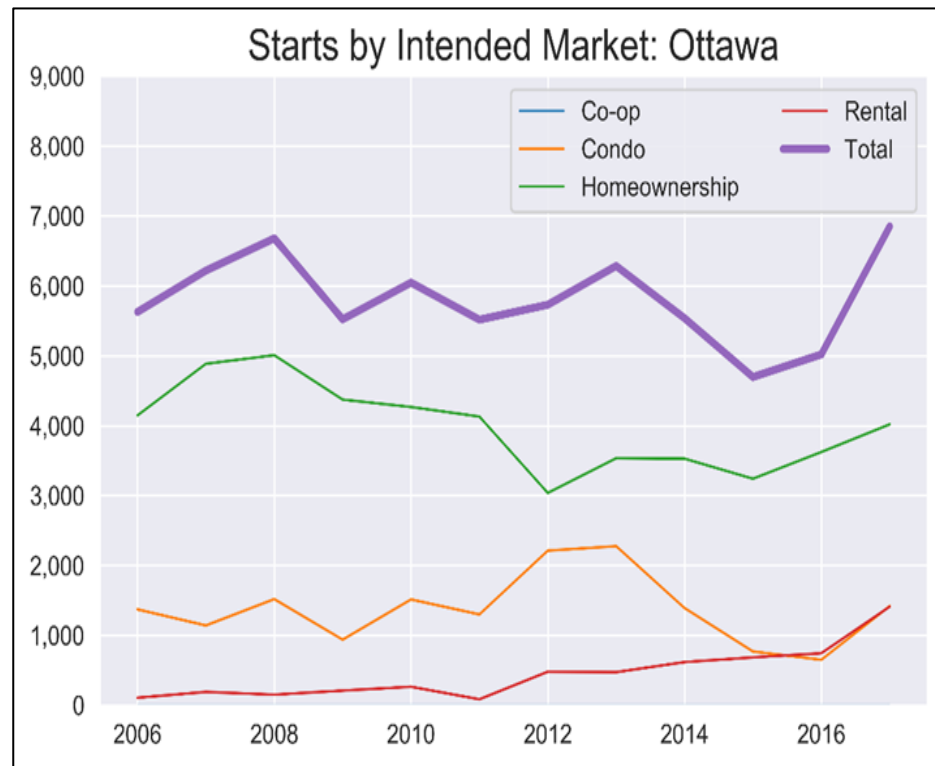
Figure 2 - Housing Unit Starts by Intended Market

Figure reproduced from *City of Ottawa Rental Market Analysis*. PRISM Economics and Analysis (2019) for the City of Ottawa,

Potential examples include two project announcements in spring 2019 that include rental towers in the downtown area:

- Claridge Homes announced a suite of 5 projects including a rental building atop the Lyon LRT Station; and a mixed rental/condo 26 story tower in the Byward market.¹³
- Place Dorée Real Estate Holdings filed a site plan with the city where it plans to build a 25-storey mixed-use tower at 81 Slater St. that would include 196 rental units.¹⁴

Policy regarding the rental housing market is outside the scope of this Paper. However, an important question raised by stakeholders in multiple cities is whether web-site services for short-term accommodation have a negative impact on any shortage in rental housing.

¹³ (<https://ottawacitizen.com/life/homes/building-up-ottawa-three-new-condo-towers-in-claridges-five-upcoming-projects>)

¹⁴ <https://obj.ca/article/montreal-developer-proposes-25-storey-mixed-use-building-downtown-ottawa>

We may compare two story-lines:

Short-Term Rental Web-Sites Reduce Supply of Long Term Rentals	Short-Term Rental Web-Sites <i>Have No Impact or Add to Supply of Long -Term Rentals</i>
<ul style="list-style-type: none"> • The supply of rental housing moves slowly and is essentially fixed in the short run. • The higher returns from short-term rentals cause owners of rental units to switch to the market serving travellers. • Any increase in short-term accommodation from private providers (other than hotels) is a net loss of available rental units for residents of the city. • The switch also may also leave hotels under-utilized – an additional source of waste and a negative impact on hoteliers. 	<ul style="list-style-type: none"> • The supply of rental housing eventually expands to meet demand. • Short-term rental web-sites enable more people to afford their own homes through the short-term leasing of rooms or flats or coach houses in their new homes. • The shift to home ownership leaves a greater supply of rental accommodation for others. • Running a hotel with proper oversight is more work and results in a higher vacancy rate than renting a property on a long term basis – so there is a constraining factor allowing the long term rental market to coexist with short-term rentals even though the average price per night is different. • Some short- term housing (apartment hotels) has shifted to the longer term, student housing market, off-setting some of the impact.

Both story lines are potentially true – one is the short-run before rental supply adjusts. The other is the longer run story of what can happen after more rental units are built in response to demand. This is not to say that the rental housing construction market functions particularly well. If it did, shortages would be anticipated and sufficient construction would already be underway or completed. Advocates of free markets will argue that historic impacts of rent control meant that rents had to rise significantly before the private sector risked new rental units. However, rent control in Ontario has been fairly benign, with a tendency to exempt new construction, and the current exemption of units rented to new tenants; and the rise in market asking rents seems to have been sufficient to generate some response.

In terms of empirical evidence, there are many studies substantiating the short-run negative impact on rental housing supply.¹⁵ For Ottawa, Fairbnb Canada estimates that 1,054 homes have

¹⁵ See *Rental Accommodations Literature Review and Inter-jurisdictional Environmental Scan* Prism Economics and Analysis 2019, for the City of Ottawa.

been converted to “ghost hotels” based on its own review of listings by short-term rental web-site listing services.¹⁶ Fairbnb had a similar estimate for Toronto, arguing that 6,500 homes were converted to “ghost hotels”. Airbnb argues that studies such as these overstate actual bookings, since a listed property is not necessarily successfully rented. Some are not rented for some periods, some are withdrawn when someone tries to book, and some bookings are cancelled.

There is not yet a cumulated body of evidence on the long-term impact on housing, as the high growth of listing web-sites is a recent phenomenon. However, the increase in purpose built rental housing starts and the conversion of some apartment hotels to student accommodation seems to reflect the expected longer term adjustments.

Whether or not one believes that Airbnb and other services contribute to a rental housing shortage, it is helpful to remember they are not the fundamental cause. As shown by the history and projection for the City of Ottawa, the fundamental cause is that the building of rental housing is not keeping up with household formation. In short, the root cause of the rental housing shortage is that we are not building enough rental housing.

3.5 Impact on Condominium Apartments

The general challenge of short-term rentals for apartment buildings and condos is discussed in the section on complaints and concerns. There are additional dimensions to the specific impact on condominiums and condominium governance that should be acknowledged. The stories have both positive and negative aspects.

As noted earlier, most condominiums do not permit short-term rentals. A typical condominium building relies on locks, cameras, and security maintained by good condo member practices. To keep member costs down, relatively little may be spent on employees. By observation, most Ottawa condos do not have a concierge or full time desk security. Even with full-time security, it is difficult for condominiums to prevent short-term rentals. Condominium members may list their units anonymously, provide keys in exterior lock-boxes attached to public benches, and advise guests to be discreet. Condominium owners may themselves be fooled by leasing to purportedly long term tenants, only to discover much later that their unit has been sub-let for short-term use with web-services. Thus short-term rental activity is not exposed until problems begin to occur.

The business model of Airbnb and others requires limited detail on location or host identity, in order to prevent hosts and guests from contracting separately and denying the web -service its’ fee. This same anonymity is a barrier to anyone discovering or monitoring whether a unit in their building has been put out to short-term rental. The problem is faced by individual condominium owners and by condominium boards collectively.

¹⁶ *Addressing Ottawa’s Housing Crisis*. Fairbnb Canada (2019).

However, there are additional sides to this issue. There are situations where a condominium board may want or desire short-term rentals to be permitted, and perhaps even seek formal zoning changes to permit them. For example:

- **Recently completed condos.** It is traditional for condominium builders to try to sell as many units as possible in advance of construction. Construction completion is not always timely. Purchasers, particularly downsizing retirees, may have sold their previous homes and found that their new home was not ready. Alternate arrangements are made by individuals. When the condo is completed, many units may, initially, be empty. Although owners may ultimately intend to move in, a significant portion of them may find they need to generate income from their unit until they can transition from their other ad hoc arrangements. Short-term rentals are an important option because there is no long-term tenant to displace when the owner is finally ready to move in.
- **Economic Downturns.** A city may collectively be caught by surprise by economic reversals. Condominium construction initiated during a boom period may find itself completed during a local recession. Many units may be empty or unsold. Building security and finances require occupancy, as perhaps does the surrounding neighbourhood and businesses if the development was guided by zoning to one area. Arguably, Calgary's East Village renewal may be an example. This neighbourhood near the Saddledome and the Bow River was part of a planned renewal that included new construction of many condo towers. At this less vigorous economic time, the buildings are also a nexus of short-term rental activity, presenting a quandary for the City of Calgary.¹⁷
- **Deliberate Choice.** A significant portion of condominium owners may view their properties as revenue properties, leading to Board changes of condominium rules to allow the activity, along with potentially stronger security and more services (e.g. concierge at the door) to support it. In 2017, Neptune Condominium, a waterfront condominium in Toronto, became the first in Canada to sign a cooperation agreement with Airbnb. This arrangement was in part a reflection of the desire of a majority of the condominium owners to permit revenue activity in a way that gave greater control and knowledge of who was in the building at any given time.¹⁸

One potential reaction to this issue would be to create regulations that allow better registration and identification of short-term rentals, while leaving it up to individual condominium boards to

¹⁷ <https://calgaryherald.com/news/local-news/data-show-broad-use-of-short-term-rentals-such-as-airbnb-in-calgary>

¹⁸ <https://www.cbc.ca/news/canada/toronto/airbnb-toronto-condo-sign-first-canadian-agreement-to-regulate-short-term-rentals-1.4370459>.

make a local community decision, including filing any required zoning applications. And what if the condo board made a decision some, or even a majority of owners did not like?

4 What Other Cities are Doing

The emergence of short-term rental web-services is a world-phenomenon. How have other cities addressed the issue of regulation?

The City of Ottawa has conducted a broad literature review and comparison of other jurisdictions (*Rental Accommodations Literature Review and Inter-jurisdictional Environmental Scan*, PRISM Economies and Analysis, Feb. 2019). For discussion we will focus here on recent measures by two Canadian cities: Toronto and Vancouver.

4.1 Toronto's Approach

In December 2017, Toronto's City Council approved a set of measures to regulate short-term rentals through web services. The measures focussed on restricting short-term rentals to owner-occupied residences, including the rental of separate units such as coach houses and flats in the same building or property as the principal residence of the host. Short-term rentals of units or parts of units that are not the principal residence of the host were forbidden. An enforcement framework required registration of all properties being listed, and licensing of web-services such as Airbnb.

Details of the Toronto Council approach included¹⁹:

- A short-term rental was defined as less than 28 days.
- An operator was defined as someone renting a dwelling unit or part of a unit.
- A short-term rental company was defined to include facilitating and brokering bookings. Excluded are hotels, motels, and services where no payment was involved (e.g. Kijiji).
- Operators were required to
 - Register (annual fee of \$50).
 - Demonstrate that the property is their principal residence.
 - Provide more detailed information demonstrating that the property was a principal residence, within 10 days of a request by the City.
 - Display the registry number when advertising.
 - Keep records for 3 years and provide them to the City on request.
 - Provide guests with a diagram of exits and emergency contact information for the duration of the stay.

¹⁹ <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.LS23.1>

- Provide the city with 24 hour emergency contact information for the duration of any stay.
- Limit rentals to 180 days per year.
- Pay the 4% Municipal Accommodation Tax.
- Rentals may include up to 3 bedrooms, the entire unit, or secondary suites.
- Short-term rental companies were required to:
 - Be licensed by the City (\$5,000 one-time fee, plus \$1.00 per night booked).
 - Have a process for identifying and removing non-compliant listings.
 - Have a process for identifying and banning repeat non-compliant operators.
 - Share records with the City.
 - Consent to audit by the City
 - May voluntarily cooperate in the collection of the 4% Municipal Accommodation tax.

Toronto's rules have not yet been implemented. The zoning rules were immediately challenged to Ontario's Local Planning Appeal Tribunal²⁰ Full hearings are set to begin in August 2019. Appellants include small operators of several residential houses in the same neighbourhood.

A key issue is the proposed 180 day limit (approximately six months). Although not stated, this is consistent with the six- month limit on time out of country to retain one's Canadian residency status for health insurance coverage. The limit appears to be focussed on ensuring that the host is truly using the property as their principal residence. However, the limit is also an issue for Toronto residents who rent out rooms in their residence year round to finance the continued occupation of their principal residence, or who rent secondary suites on their property.

The Ottawa Gatineau Hotel Association and Fairbnb are largely supportive of Toronto's approach to eliminate commercial short-term accommodation through web-sites. However, they disagree with the 180 day limit, suggesting a tighter 90 day limit.

4.2 Vancouver's Approach

Vancouver has a similar approach to Toronto, and has implemented its rules effective April 19, 2018 (a little over a year ago). Like Toronto, the focus is limiting short-term rentals via web-sites to activities by the principal resident of the property. However, Vancouver's rules focus on licensing requirements of the Host.

Details of Vancouver's approach include:²¹

²⁰ The replacement for the Ontario Municipal Board.

²¹ <https://council.vancouver.ca/20171024/documents/phea1summary.pdf>

- Short-term rental accommodation is a dwelling unit or a room in a dwelling unit rented for less than 30 days. Excluded are hotels and bed and breakfasts.
- A short-term rental accommodation operator is one who offers short-term rental accommodation.
- Short-term rental operators must acquire a short-term rental license from the City. They must also acquire a general business license from the City. (A one-time \$58 administration fee and a \$49 annual fee).
- Requirements of operators:
 - Only one property may be licensed for short-term accommodation.
 - Permission from, as relevant,
 - the Condominium board (Strata in BC terminology).
 - The landlord (if a tenant).
 - Marketing must display the business license number.
 - Provide guests with an emergency contact, and post a fire plan.
 - Provide, and test annually, smoke and carbon monoxide detectors.
 - Keep records of compliance and provide to the city on request.
 - Meet a variety of other fire safety requirements, with more stringent requirements where the unit is located in larger buildings.

Separately, Airbnb also has an agreement with the City of Vancouver where illegal operators are to be deleted. At the same time, Airbnb and Tourism Vancouver have also struck a positive cooperation deal to market Vancouver and “expand the variety and quality of licensed accommodation offerings in the city”.²² Other operators, such as HomeAway, inform hosts of the municipal requirements but do not have enforcement agreements.²³

There is no explicit limit on the number of days of the year a unit may be offered for short-term accommodation.

The cooperation agreement with Airbnb has been criticized for absolving Airbnb of any liability for enforcement.²⁴ However, Airbnb states that it has taken down more than 2,500 listings and is working closely with the City. The City has been carrying out enforcement activity based on complaints and monitoring web-sites. Total listings are down, and the number of multi-hosts with more than one unit (potentially illegal if not representing different actual property owners) is also reported as down.²⁵ It should be noted that the City of Vancouver is relatively small, and many of the surrounding municipalities do not have the same regulations.

²² <https://www.vancourier.com/tourism-vancouver-partners-with-airbnb-1.23517807>

²³ <https://www.vancourier.com/real-estate/hundreds-of-vancouver-property-owners-flouting-airbnb-rules-1.23547789>

²⁴ <https://www.cbc.ca/news/canada/british-columbia/vancouver-airbnb-housing-market-effect-1.5026028>

²⁵ <https://www.cbc.ca/news/canada/british-columbia/vancouver-short-term-rentals-1.5125011>

5 Discussion Points

Many Ottawa residents have used Airbnb, HomeAway or other on-line short-term booking platforms when travelling out of Ottawa on business or pleasure. If the same rules were to apply in other cities as are proposed for Ottawa, they may impact the availability of accommodation to travelling Ottawa residents.

We may divide discussion points in three dimensions: what activities to regulate, who to regulate, and how to regulate.

5.1 What activities to regulate?

Some Ottawa residents and property owners have rented their homes, listing them on the on-line platforms, and earning revenue. How much should this be restricted in the future?

Should the City of Ottawa:

- a. Allow owners to rent out rooms in their own principal residence, if the owner is present?
- b. Allow owners to rent out secondary suites or coach houses on their own principal residence property, if the owner is present?
- c. Allow owners to rent out their entire principal residence if they are going to be away for a holiday or to spend the winter in the south?
- d. Allow owners to rent out properties they own as investment properties?
- e. Allow owners of newly built condominiums to rent their units until they can sell their house and make arrangements to move in?
- f. Restrict any short-term rentals to residences in commercial or mixed-use zones (i.e. where hotels are permitted)?

5.2 Who to regulate?

The City's principal jurisdiction is over the use of property within its borders – thus the focus of most regulation is property owners and/or tenants. The City of Vancouver's regulations focus on licensing and setting rules for the hosts who list properties on the web services. Alternatively, Toronto has attempted to extend licensing requirements to web-listing services as well. These include companies such as Airbnb, HomeAway, and others. There are obvious problems in regulating Internet services that may not even be located in Canada. However, there has been a degree of success in similar areas given the municipal authority over business licensing within the municipality. For example, web-based companies like Uber and Lyft, are now part of Ottawa's licensing regime for vehicles for-hire.

A third category for potential regulation is agents. Toronto is planning to license agents. Vancouver does not. These are the individuals who act for the owners of more than one property, whether the properties are owned by many individual owners, or by a multi-unit owner. Their name may appear on multiple listed units and rooms. These individuals may not be resident or own any of the units shown. Individual property owners or tenants may use agents to manage the day to day operation of a property, arranging the cleaning, responding to potential visitor enquiries, etc. Licensing agents could be a way to regulate the services they provide, and how they provide them. It may also provide tighter controls if licensing or registering hosts cannot achieve the required outcomes.

Another question is whether to exempt traditional hotels and motels. These businesses are also short-term accommodation. Toronto and Vancouver have both made this exemption. A potential issue is defining a hotel so that it is clear what is being exempted.

There is no specific hotel license issued by the City of Ottawa. The zoning definition focusses on a building with more than six units, with the implicit assumption that the building and hotel are under one management. As with many industries, technological change is introducing convergence so that web-sites for hotels and web-sites for short-term rentals are becoming less distinguishable. Expedia, a hotel and travel booking site, has launched HomeAway as a brand for short-term rentals. The HomeAway site integrates former listing services like VRBO.²⁶ Booking.com now also carries private listings of short-term rentals. Marriot hotel is now officially getting into the home sharing business.²⁷ From the other end –Airbnb has launched an experiment of a hybrid hotel/home convenience service, beginning with 10 floors in a New York building.²⁸

As for the buildings themselves, the new environment no longer allows one to assume that the building and the “hotel” are one. When booking, payment, and room access codes are handled through a web-site – a front desk is no longer a necessary feature of a hotel. It is possible to have a “hotel” that is a web -site offering managed units that are distributed across multiple buildings where the management of those buildings is different from the hotel (e.g. condominiums). This may happen with the cooperation of those condominiums, as appears to be developing in Toronto’s waterfront area.

If exempting hotels, a challenge will be to ensure a working definition of “hotel” that considers the new possibilities, and which of them should be exempt. This challenge extends to any regulation or licensing web-services as hotel web-sites, booking web-sites, and web-listing services converge in function and coverage.

²⁶ <https://skift.com/2019/05/02/expedia-faces-stiff-headwinds-in-rebranded-short-term-rental-business/>

²⁷ <https://skift.com/2019/04/29/marriott-is-officially-getting-into-the-homesharing-business/>

²⁸ <https://www.travelweekly.com/Travel-News/Hotel-News/Hospitality-models-blur-further-as-Marriott-Airbnb-expand-turf>

5.3 How to Regulate?

Regulation can happen in different ways, with different levels of cost to administer and enforce the regulatory regime. Strong regulation normally requires a municipal license to operate. The requirement to license must be enforced (in Ottawa by By-law Officers), and compliance must be checked at the beginning and by complaint, inspection, or random checks. Toronto and Vancouver have chosen the licensing path for at least part of their programs, but vary on who they licensed.

At a lesser level, one may set rules without a licensing regime. Enforcement in these frameworks is usually based on complaints, although some pro-active enforcement is also possible. Without a licensing regime, the rights of enforcement officers to check premises or investigate is limited.

An intermediate level is to have registration. At its weakest, registration is voluntary and associated with certification programs that consumers may use to choose their suppliers. Voluntary registration does not suggest itself as an effective solution for the complaints associated with short-term rentals through web- services. Voluntary certification tends to create two markets – a premium certified market, and the continued presence of an uncertified market.

Toronto has taken registration to the next step: compulsory registration with licensing fees. Toronto proposes to register hosts who list units, but license companies like Airbnb and HomeAway that carry the listings. The distinction between compulsory registration and licensing is not clear. However, the term registration may communicate a lesser assumption of liability by the municipality for the quality of the offering. For example, licensing and inspecting a restaurant implies a certain degree of civic guarantee about the food safety of licensed establishments. Merely registering restaurants might imply something less.

6 Your Comments

This study has been designed to capture the comments of as many people as possible. You can provide your comments in a number of ways:

- The web-site **ottawa.ca** provides the opportunity to provide comments on this Discussion Paper and/or the other two Discussion Papers.
- You may email your comments to RentalHousingReview@gmail.com.
- You may attend one of a number of workshops that will be discussing the issues. You can register for a workshop on-line at **ottawa.ca** . The workshops will be held throughout May and June 2019.

Following the workshops and the analysis of comments received, the study team will be preparing an Option Analysis paper that will describe the input received, outline the alternative approaches under consideration, and provide a preliminary evaluation of those options. This report will be emailed to everyone who participates in the process by providing their comments and/or attending a workshop (provided they have given an email address). This will likely occur during the

summer, and you will have at least two weeks to provide any further comments, based on the Options Analysis document.

After analyzing the comments received, the study team will complete its Final Report and submit it to the City of Ottawa. City staff will then prepare a staff report which will go to the Community and Protective Services Committee and City Council. You will have a further opportunity to provide comments to the Committee when the staff report goes forward.