PROTECTING TENANTS IN THE ON-DEMAND ECONOMY

THE PROBLEM

The recent growth of the on-demand economy poses a number of challenges for cities, including a loss of affordable housing. The proliferation of AirBnB properties reduces the availability of affordable housing by putting upward pressure on rent prices. Cities should evaluate carefully the claims of AirBnB and other companies about their impact on job and economic growth, with an eye to job quality and net growth. In addition, without adequate tracking mechanisms and taxation policies, cities may lose needed tax revenue. According to LAANE, commercial AirBnB activity costs Los Angeles renters more than $464 million annually and accounts for 63 percent of new housing construction.[1]

Domestic workers, hired by AirBnB to keep costs down, are at risk of wage theft and lower wages. They earn a median wage of $10 an hour, compared to hotel workers who earn an average wage of $14.07 an hour[2]. AirBnB also poses a threat to hotels' profitability and associated jobs. A 2013 report found that 91 percent of the more than 52,000 domestic workers in the Bay Area had no overtime provisions and a quarter of them were paid below minimum wage[3]. Low wages, especially in expensive urban areas, make it difficult to afford the cost of living. As officials consider the right policies governing on-demand rental units, they should consider their impact on housing and rental markets, lost property tax revenue, insurance, liability, consumer protections, data reporting and user privacy, and the cost of enforcement.[4]

THE SOLUTION

City officials should craft laws and regulations that promote tourism while protecting affordable housing stocks, particularly against commercial operations that buy up large numbers of properties and convert them from permanent housing into basically unregulated hotels.

Local regulations should ensure that AirBnB and similar companies are responsible for public health and safety. Hotels are subject to a significant number of requirements and regulations. AirBnB staff allow their hosts to operate in a similar fashion without being subject to any of these regulatory measures. The **Los Angeles Municipal Code** requires hotels to keep registries of guests, a record that can be used to regulate questionable hotels, provide information for criminal investigations, and help track the spread of diseases.[5] AirBnB treats its hosts as independent contractors and cannot be held liable for the actions of these contractors, or their guests; therefore the hosts take on the greatest amount of risk. AirBnB frequently entices cities with the promise of jobs and remittances equivalent to a city's transient occupancy taxes (TOT), otherwise seen as adding new revenue for cities. In both cases, AirBnB is more often shifting an economy than it is contributing to growth. Many guests would stay in hotels, supporting good jobs and paying taxes, if AirBnB was not available.[6]

In **San Francisco**, the city's initial ordinance had few restrictions. Housing advocates encouraged the Board of Supervisors to consider options including a back tax payment of about $25 million dating to when the city treasurer ruled that vacation rentals are liable for the city's 14 percent sales tax, a ban on units in rent-controlled buildings, and a prohibition against renting units that have been vacated under the Ellis Act. None of those passed initially, but a few city supervisors have said they would consider single-ordinance legislation to restrict some of the industry's activities.[7]

The **City of Portland** negotiated a regulatory framework that allowed it to collect hotel taxes in exchange for a new category of housing in the planning code, "Accessory ShortTerm Rental (ASTR)." One piece governs AirBnB units in single-family homes and the second governs those in multifamily housing. ASTR grants permits to be displayed, and hosts must pay a small fee, notify neighbors, and submit to an inspection to receive the permit. Homeowners may not rent a space in their home for more than 95 days per year.

Portland's Shared City Initiative helps AirBnB renters collect taxes on behalf of the city. Portland has also run into enforcement issues: the Portland Revenue Bureau estimates that 93 percent of all hosts haven't met the necessary conditions to operate. Data collection is complicated because of user privacy issues. The city requires companies like AirBnB to submit contact information for all hosts, but the rules do not put any direct liability on AirBnB as long as it continues to pay money to the city.[8]

New York City has a more stringent approach: Under state law, residential rentals shorter than 30 days are considered illegal. The law has been enforced, slowing AirBnB's expansion; an investigation by New York Attorney General Eric Schneiderman found that more than 72 percent of AirBnB's New York City revenue was generated by illegal listings. The investigation also found that commercial hosts comprised a significant portion of the New York City AirBnB market. The city's continued efforts to bring transparency to AirBnB's business practices show that AirBnB could require hosts to comply with state law but it chooses not to do so.

Cities that are uncertain about the impact of AirBnB should consider convening a special task force to better understand home rental economic and social effects. The **Los Angeles City Council** has convened a working group to assess best practices for regulation in the residential sector.[9] Cities should also evaluate the current short-term rental regulations to see how effective and appropriate they would be for home rentals.

RESOURCES AND MATERIALS

Additional resources on the on-demand economy can be found at the **National League of Cities, LAANE**, and the **National Employment Law Project**.