

# Denver Short-Term Rental Advisory Committee Meeting Minutes

## February 12, 2019

### 1. Attendance

<b>Participant</b>	<b>Organization</b>
Molly Duplechian	Denver Department of Excise and Licenses
Brian Snow	Denver Department of Excise and Licenses
Erica Rogers	Denver Department of Excise and Licenses
Alex Cobell	Denver Department of Excise and Licenses
Chris Gaddis	Denver City Attorney's Office
Sophia Hassman	Denver Department of Finance – Treasury Division
Alexandra April	Airbnb
Carrie Atiyeh	Visit Denver
Laurie Bogue	Non-Host
Susan Bailey	STR Host
Mary Lou Fenili	Non-Host
Councilmember Flynn	City Council District 2
Jack Garber	STR Host
Buffy Gilfoil	STR Host
George Mayl	Non-Host
Michael Murphy	Non-Host
David Pardo	STR Host
Cindy Sestrich	Non-Host
Councilmember Susman	City Council District 5
Cindy Wagstaff	STR Host
Charlotte Winzenburg	Non-Host
Sabrina Zunker	Denver Metro Association of Realtors

# Denver Short-Term Rental Advisory Committee Meeting Minutes

## February 12, 2019

### 2. Agenda

- I. Introductions
- II. Old Business
- III. Licensing and Enforcement update
- IV. New STR rules adopted
- V. Short Term Rental Action Plan update
- VI. 2019 STRAC Goals
- VII. Public Comment
- VIII. Other Items/Adjourn

### 3. Meeting Notes

Item	Discussion
1. Introductions	<ul style="list-style-type: none"> <li>• STRAC has 3 new members, and one alternate member who has become a full-time member. Additionally, EXL has secured another employee (Alex Cobell) to help Brian Snow (EXL) with STR enforcement. Everyone introduced themselves.</li> <li>• Molly Duplechian (EXL) reminded the group that anyone who wants to provide a formal public comment at the end of the meeting should fill out a form.</li> </ul>
2. Old Business	<ul style="list-style-type: none"> <li>• Before moving into the Licensing and Enforcement updates, George Mayl asked that we address old business. Specifically, he wanted to remind Airbnb that, at the last STRAC meeting, he had asked that they remove non-compliant listings from their site. Alex responded that in order to address non-compliant listings, they are working on education first. She noted that the week prior, Airbnb had publicized two workshops in Denver where city staff (Molly, Brian, Erica,</li> </ul>

**Denver Short-Term Rental Advisory Committee Meeting Minutes  
February 12, 2019**

	<p>and representatives from Treasury) presented on how to lawfully operate a licensed STR in Denver. These workshops highlighted the need for operators to get licensed and to display the license number on all of their advertisements. In addition, Alex mentioned that she has been working with EXL to encourage voluntary compliance first.</p>
<p>3. Licensing/Enforcement updates (EXL)</p>	<ul style="list-style-type: none"> <li>• Molly presented the group with an update on the YTD stats, including number of licenses, compliance rates, and notice of violations.</li> <li>• The number of licenses continues to grow while the number of unique STR properties identified by host compliance remains stable. We are up to 2,556 licenses out of 3,773 unique STR properties identified. This has resulted in an increased licensure rate of 68%, up from the 53% licensure rate in November.</li> <li>• Brian noted that since December, we have started identifying and tracking non-active listings. The number has remained about the same since December, with 146 properties showing no activity (such as changes to ads, reviews, or listed stays) in the past 12 months. Identifying these non-active properties could aid in increasing the licensure rate by contacting hosts to remove the non-active listings.             <ul style="list-style-type: none"> <li>○ David asked whether Airbnb is legally allowed to remove listings. Alex A. stated that Airbnb has to confirm with the owner of the posting that it is no longer active before they are able to remove the posting.</li> </ul> </li> <li>• Molly provided an update on the number of STR Lodger’s Tax Accounts (3,157) and the total amount of Lodger’s Tax revenue collected for 2018 (\$8.36 million). This is a substantial increase from the amount of Lodger’s Tax revenue collected in 2017 (\$3.5 million). Molly also noted that we are continually working to educate hosts that they need <b>BOTH</b> a Lodger’s Tax License/ID <b>and</b> a Business License.</li> <li>• At the last meeting, a committee member was interested to know what percentage of the City’s revenue comes from the STR industry. Molly reported that the Lodger’s Tax collected from Short-Term Rentals in 2018 was 7.5% of the total Lodger’s Tax reported to the city for 2018.             <ul style="list-style-type: none"> <li>○ Cindy S. asked how quickly taxes are remitted to the city. Sophia described the time frame, stating that, for example, Airbnb has from Feb 1-20 to pay the taxes for January.</li> <li>○ Another member asked how Treasury knows that the amount that Airbnb is remitting in taxes to the city is the correct amount?</li> </ul> </li> </ul>

## Denver Short-Term Rental Advisory Committee Meeting Minutes February 12, 2019

- One member asked if the city has access to Airbnb records.
- Sophia stated that the Airbnb account will be audited like the other accounts set up with Treasury and access to their records will be requested at that time.
- Molly then introduced Alex Cobell, who will now be assisting Brian as a Licensing Technician. Alex has been with EXL as a Licensing Technician for marijuana and liquor applications, but has shifted into a role that will directly assist Brian with STR licensing.
- Brian Snow (EXL) presented the updated enforcement numbers regarding the Notice of Violations (NOVs) and Admin Citations (ACs) that have been sent out.
  - Since May 17, 2018, a total of 1989 NOVs have been issued. This is the first step of enforcement. We are seeing approximately an 80% success rate with NOVs alone.
  - Since June 9, 2018, a total of 434 first-level ACs have been issued, with a 78% success rate. Since June 9, 2018, a total of 85 second-level ACs have been issued, with an 80% success rate. ACs are the second step of enforcement and carry \$150 and \$500 fines, respectively.
  - Since May 2018, a total of 63 investigative reports have been written, all of which are based on primary residence complaints.
    - The first complaint recently went to a show cause hearing where the hearing officer heard testimony and evidence from the licensee and neighborhood witnesses. The hearing officer recommended that the license be revoked. The final order by the Director has not yet been issued.
    - Buffy asked about the next steps for the hearing process and whether more punitive remedies were available in addition to licensure revocation. Erica explained the hearing policies and procedures, as well as the timeline for comments. She noted that the decision would not be final until the Director issued her Final Decision in the matter, so unless and until the Director orders that the license be revoked, the STR may still operate. Brian noted that if a property continues to operate after a Final Order is issued to revoke a license, that fines and criminal penalties could apply.
    - Brian noted that this first hearing would be instructive for future hearings regarding primary residence, and now that we have an example for how the

**Denver Short-Term Rental Advisory Committee Meeting Minutes  
February 12, 2019**

	<p>hearings will go, he can start scheduling hearings for other complaints that have been investigated and backlogged.</p> <ul style="list-style-type: none"> <li>○ Brian also noted that, with Alex’s help, denial of licensure applications that do not meet the requirements have increased. When the online system was launched, there was no document review – an applicant could answer all of the questions and print a license. Now EXL is reviewing primary residence documents to ensure that the requirements are met, and if they are not, issuing orders of denial.</li> <li>● George asked Brian whether there has been any increased funding to neighborhood services. Brian noted that there hasn’t been a specific increase there, but that the folks who respond to the complaints are usually DPD based on the time of day the complaints occur. Brian noted that he is going to work on setting up some DPD training for the police who respond to complaints.</li> <li>● Sabrina asked what kind of press the show cause hearing received. Brian noted that there were a couple of news stories that we will circulate to the STRAC.</li> <li>● Molly reviewed the number of STR calls received in 2018 (2284), noting that 238 were complaints about primary residence. <ul style="list-style-type: none"> <li>○ Cindy asked how many properties the 238 complaints were for, but Brian said that was hard to track so he couldn’t provide an answer.</li> </ul> </li> </ul>
<p>4. New STR rules adopted</p>	<ul style="list-style-type: none"> <li>● The new STR rules were adopted on January 25, 2019, and will go into effect on April 10, 2019. The effective date was chosen to allow STR hosts time to review the rules, discuss the requirements with their insurance carriers, and come into compliance with the new requirements.</li> <li>● The new rules address insurance limits and notification, good cause for licensure denial or sanction, and notification requirements for a Local Responsible Party. <ul style="list-style-type: none"> <li>○ STR operators will be required to maintain liability insurance to cover use of the STR for each stay in an amount no less than \$1 million. Operators may elect to maintain such coverage through an additional insurance policy or by conducting each transaction through a platform that provides such coverage.</li> <li>○ STR operators must notify their insurance company and HOA (if applicable) that they will be using the property for STR use. This is to protect against insurance fraud and improper denial of claims in case of property damage.</li> </ul> </li> </ul>

**Denver Short-Term Rental Advisory Committee Meeting Minutes  
February 12, 2019**

	<ul style="list-style-type: none"> <li>○ STR operators must also notify the city of any change to the Local Responsible Party (LRP) within 30 days. The LRP is a person who may be contacted if the licensee is traveling outside of Denver during a guest’s stay. This person must be in Denver, must have access to the unit, and must have the authority to make decisions about the property in case of an emergency. This allows licensees to use their primary residence as an STR even if they are unavailable (for example, if the licensee is called for military duty), while still ensuring that the property is responsibly managed in their absence.</li> <li>○ Finally, the rules allow the Director to deny, revoke, or sanction a STR license for “Good Cause.” Erica noted that some of the public comments received during the rule making process expressed concern over the definition of “good cause” and the due process requirements for such denial, revocation, or sanctions. She explained that the process was modeled after similar provisions for liquor and marijuana licensees, and that any denial or disciplinary proceedings would follow the process outlined in the Department’s Hearing Policies and Procedures (available on the EXL website).</li> <li>● Carrie asked if the rules would affect all licenses, or if licensees would only be required to comply on renewal. Brian answered that while all licensees would be required to comply as of April 10, 2019, we would only be asking licensees to certify compliance upon renewal.</li> <li>● Buffy asked if EXL would consider putting together a template for hosts to use when notifying their insurance companies and/or HOAs. The City responded that this is a document that will need to be prepared by the licensee.</li> </ul>
<p>5. STR Enforcement Action Plan and Discussion</p>	<ul style="list-style-type: none"> <li>● Molly updated the committee on the progress that EXL has been making on the STR Enforcement Action Plan. The plan was introduced at the September 2018 meeting, and outlines four major issues, each with several solutions and action items. Molly highlighted the tasks that we’ve completed and noted that the group accomplished a lot in 2018.</li> <li>● <u>Unlicensed hosts.</u> <ul style="list-style-type: none"> <li>○ Education/Outreach to hosts: We have completed the revisions to our website and user guides and hosted two recent workshops for Airbnb hosts. Each of the workshops had about 30-35 attendees.</li> <li>○ Hold platforms accountable for unlicensed hosts: EXL is working closely with Airbnb to increase awareness about Denver’s rules to achieve voluntary compliance, and Alex will be sending an email to unlicensed hosts next week to ensure we’ve notified them of what is required.</li> </ul> </li> </ul>

## Denver Short-Term Rental Advisory Committee Meeting Minutes February 12, 2019

	<ul style="list-style-type: none"><li>▪ David inquired about the recent change to Los Angeles’s STR laws, which will now fine a hosting platform \$1,000 a day per illegal listing.</li><li>○ Identify tax licensees without business license: We are also continuously working to identify operators who have gotten their Lodger’s Tax ID and did not follow through to apply for their STR license with EXL and reduce the number of people operating with only one of the two.</li><li>○ Open data for all STR licenses: We’re also working to make the data for STR licenses more searchable and user friendly to allow neighbors and guests to easily identify locations that are licensed.</li><li>● <u>Improving applications.</u><ul style="list-style-type: none"><li>○ In 2018, we improved the lodger’s tax license application language and clarified that business licenses are required in addition to tax licenses. We also added FAQ language regarding lodging license eligibility and current application requirements to our website, and updated the definition of person that we’re using to match the definition in the zoning code.</li></ul></li><li>● <u>Compliance with the primary residence requirement.</u><ul style="list-style-type: none"><li>○ As mentioned above, in 2018 EXL began requiring certain documentation to be uploaded upon application and renewal and is now using the definition of “person” from the zoning code.</li><li>○ EXL continues to research other cities’ ordinances and look for additional strategies that could be used to increase compliance.</li><li>○ We did not pursue an ordinance change regarding the definition of “primary residence” or requiring a limit on the number of days guests may stay in a property used as an STR. This will remain on the work plan for consideration.</li></ul></li><li>● <u>Bad operators.</u><ul style="list-style-type: none"><li>○ In 2018/early 2019, we adopted rules to address the problems created bad operators that negatively impact the health, safety, and/or welfare of the community. This is a tool that Brian and the CAO can use moving forward to sanction or penalize bad operators. Other changes to the ordinance or rules may come later, but only after we can see the impact of the change in rules.</li><li>○ In 2018, we also created a complaint portal, began to refer specific complaints about noise, trash, etc. to the proper agency for enforcement, and adopted a rule that will provide greater enforcement around the Local Responsible Party requirement.</li><li>○ We did not pursue an ordinance change capping the occupancy limits for guests.</li></ul></li></ul>
--	---

## Denver Short-Term Rental Advisory Committee Meeting Minutes February 12, 2019

<p>6. 2019 STRAC goals</p>	<ul style="list-style-type: none"><li>• Molly opened with a list of proposed values and goals based on the feedback we've received from members, but noted that this was a totally open conversation for members to discuss the goals and values the group wanted to put in writing for 2019.<ul style="list-style-type: none"><li>○ Some of the values included fostering innovation and new business models, and creating enforceable regulations.</li><li>○ Some of the goals included identifying platform requirements, defining "place of normal return for housing," continued host education, online address and licensure search, and property management compliance guidelines.</li></ul></li><li>• Councilmember Susman said that one of the strongest values she considers in all STR regulation is that we do not want this to have a negative impact on the housing stock in Denver. She noted the problematic effects of people owning second, third, or fourth homes and driving down the stock for long-term housing to Denver residents and limiting the options for affordable housing.</li><li>• Sabrina wanted to address the issue of clients who were receiving false notices of violation, for example, because they had purchased a home from a previous licensee who had not removed all listings. She worried that noticing these persons was a waste of time, and wondered whether it would be more effective to prevent platforms from allowing posts from inactive licenses. Brian assured her that it was not a big waste of time, and that he worked with those in the situation she described. He also noted that we are getting better at filtering, so that problem will naturally dissipate. Sabrina asked Alex if Airbnb would be willing to take down illegal advertisements. Alex mentioned that she will be sending a notification email to hosts without active listings as a first step.</li><li>• Cindy S. expressed a concern with the shutting down of multiple unit owners – she wondered whether there was something more substantial we could do to ensure that scamming the system would not be worth their time – something that fits the amount of money made.</li><li>• Buffy discussed the problem at properties like the Windsor, where the quality of life has diminished due to the presence of so many illegal STRs. Michael noted that he is a resident of the Windsor and hoped it would be a goal to address the issues with the definition of primary residence. Brian noted that the new Good Cause rules provide an additional tool for addressing the problems associated with bad operators in addition to primary residence.</li></ul>
----------------------------	--

## Denver Short-Term Rental Advisory Committee Meeting Minutes February 12, 2019

- David suggested a creating a way for neighbors to more easily contact the actual licensee. Brian noted that the updated LRP rule and increased enforcement around the rule should help neighbors be able to get in touch with someone who can address complaints in real time.
- Cindy W. was concerned with the differentiation between operators who were on site during the STR guest's stay and those who weren't. Brian noted that he doesn't get many complaints about properties where the host is on site.
- Jack mentioned that in speaking with other hosts, he thought it wouldn't be any burden to require hosts to get neighbors to affirmatively state that the host lives at the purported primary residence as part of a new application. Brian countered with the possibility that neighbors who do not want a neighboring STR might refuse to affirm no matter what. Molly mentioned that maybe the value being discussed here was that primary residency is still important, and the goal is to create a better definition with fewer loopholes.
- Carrie chimed in to asked if we know how many Denver STRs conduct business through Airbnb, and whether this was something we could know based on Lodger's Tax.
  - Sophia indicated that about 1/3 of licensees use Airbnb.
  - Carrie wondered whether we should make it a goal to license additional platforms to collect and remit taxes on behalf of hosts, as Airbnb is the currently the only platform with an agreement to do so in Denver.
  - Carrie also thought it was an important and achievable goal to reduce the number of operators with a tax license and no business license.
  - Several members discussed the importance of having better, more transparent tax information and data regarding exactly what taxes are being collected and remitted.
- David asked about the goal of creating property management compliance guidelines. Brian noted that there are several local companies who offer to do the work for hosts, but that they do not have a great compliance record with EXL. Brian said that he was open to feedback on how to better manage this issue – should we require these companies to be registered with the department? Should they even be allowed?
  - Sabrina mentioned that there is a remedy for people with a real estate license who conduct improper property management.
  - Michael noted that this could be an area where educating property managers would be helpful.

**Denver Short-Term Rental Advisory Committee Meeting Minutes  
February 12, 2019**

	<ul style="list-style-type: none"> <li>○ Sabrina noted that she frequently speaks about STR property management but that its hard to regulate rogue agents. She always tries to remind them of the code of ethics.</li> <li>● Michael thought it would be a great goal to see enforcement follow up on the complaints that have been backlogged now that we’ve held the first show cause hearing.</li> <li>● Buffy asked that we make it a goal to improve our technology to be more Mac-friendly.</li> <li>● Cindy W. was interested in working with Airbnb to stop the anonymous bookings so hosts would know who was in the property for safety reasons. Susan was able to offer some tips to increase booking safety.</li> <li>● George reiterated that he didn’t want people to lose sight of the reason the group is here – to protect neighborhoods, not necessarily to ensure that people can make money. Buffy agreed that the purpose of the group was to develop STR policies that strengthen the fabric and character of city neighborhoods.</li> </ul>
7. Public Comment	<ul style="list-style-type: none"> <li>● Bridget Brophy, who has attended past STRAC meetings, gave an overview of a problems and solutions document that she prepared and delivered to members of the STRAC. Her five main ideas were: <ul style="list-style-type: none"> <li>○ Creating a fund to assist neighbors with safety and security issues.</li> <li>○ Reducing the number of days that guests may stay in a property.</li> <li>○ Eliminating outdoor smoking to reduce “pot tourism.”</li> <li>○ Increasing the number of EXL staff to help with enforcement.</li> <li>○ Requiring fire inspections to ensure safety.</li> </ul> </li> <li>● Laurel Davies is a 3-year Superhost with Airbnb. She described her concerns about the way STR taxes are paid by Airbnb to the city, noting that she has “no clue” what the amount of taxes collected or remitted are, and that there is a lack of transparency from Airbnb on this. She think it is unfair that hosts cannot obtain information from Airbnb and that communication from the city with a statement of taxes remitted on her behalf would be helpful. She also suggested regular audits.</li> <li>● Michael Lustig’s comments were as follows: <ul style="list-style-type: none"> <li>○ First, he noted that he could not find a copy of the voluntary tax agreement between Airbnb and Denver. Sophia noted that Airbnb got licensed on their own, so there is no such document open to the public.</li> </ul> </li> </ul>

**Denver Short-Term Rental Advisory Committee Meeting Minutes  
February 12, 2019**

	<ul style="list-style-type: none"> <li>○ Second, he wanted to know what Airbnb would do if the City Attorney send the company a letter requiring them to remove “zombie listings” (listings with no activity). Alex stated that she would have to speak with the company’s attorneys before answering that, but that Airbnb is trying to be a good partner.</li> <li>○ Third, he mentioned that he had done a study of STR ordinances and would be happy to share it with the STRAC. He recommended focusing on platform requirements and looking at the “paid tenant” program with Airbnb.</li> <li>○ Finally, he stated that a limit on the number of days a guest could stay in an STR would be unenforceable, and shouldn’t be considered as part of the discussion around primary residence. Instead, he noted that the group should focus on the long-term consequences of STRs and how the cost of those consequences outweigh the benefits of STRs to the city.</li> <li>● Laura Jacobson is host living in Fort Collins who expressed her issues with the length of time she was renting out her home for longer-term stays. Susan offered to help her with her listings.</li> <li>● Molly closed the public comment portion of the meeting and invited people to stick around if they had further questions.</li> </ul>
8. Next Meeting	<ul style="list-style-type: none"> <li>● The next regular meeting will be on Tuesday, April 9, 2019 at 4:00 – 5:30 p.m. The location will return to our regular room in the Wellington Webb Building.</li> </ul>