

Denver Short-Term Rental Advisory Committee Meeting Minutes

June 11, 2019

1. Attendance

Participant	Organization
Molly Duplechian	Denver Department of Excise and Licenses
Brian Snow	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
Kemi Lawore	Airbnb (late call-in)
Laurie Bogue	Non-Host
Susan Bailey	STR Host (call-in)
Mary Lou Fenili	Non-Host
Buffy Gilfoil	STR Host
Thayer Hirsh	STR Host
George Mayl	Non-Host
Michael Murphy	Non-Host
David Pardo	STR Host
Cindy Sestrich	Non-Host
Cindy Wagstaff	STR Host
Sabrina Zunker	Denver Metro Association of Realtors

2. Agenda

- I. Introductions
- II. Old Business
- III. Licensing and Enforcement update
- IV. STR Current Events

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V. New Business

- Meeting schedule to achieve 2019 goals
- STRAC Goal: Bolster Primary Residence Requirement

VI. Public Comment

VII. Other Items/Adjourn

3. Meeting Notes

Item	Discussion
1. Introductions	<ul style="list-style-type: none">• Molly Duplechian (EXL) opened the meeting by going around the table for introductions.• Molly also reminded the group that anyone who wants to provide a formal public comment at the end of the meeting should fill out a form.
2. Old Business	<ul style="list-style-type: none">• Molly Duplechian provided the following updates:<ul style="list-style-type: none">○ EXL now has a new inspector dedicated to short-term rental investigations.○ A new STR application is expected to launch in July. This process will be simplified and more user-friendly.○ A new 30-second radio spot regarding STR rules is now being aired, relaunching education efforts.○ Given no Airbnb representative was in person or on the line, an update from AirBnB was not provided.○ There were several news stories within the last couple of days regarding two people that had been arrested for providing false information on a short-term rental application. These charges are being filed by the District Attorney's Office.

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	<ul style="list-style-type: none"> ○ Molly also voiced her appreciation to Councilwoman Mary Beth Susman and her important contributions to the development of Short-Term Rental regulations in Denver. The City has appreciated her service to the committee and her thoughtful insights. <ul style="list-style-type: none"> ▪ Sabrina Zunker asked who would replace Councilwoman Susman. Molly explained that new Council President will select members of committees after inauguration.
<p>3. Licensing/Enforcement updates (EXL)</p>	<ul style="list-style-type: none"> ● Molly presented the group with an update on the year-to-date statistics for number of short-term rental listings and short-term rental licenses, as well as an update on the YTD Lodger’s Tax collection. <ul style="list-style-type: none"> ○ The last month saw a slight increase in the number of listings with a not quite equal increase in the number of licenses. This resulted in a very slight decrease in the licensing rate, from 74% to 73%. ○ Additionally, the discrepancy between the number of Tax ID licenses and STR licenses has decreased, which would imply that more and more people are aware that you need both licenses to operate. ● Brian then went over enforcement numbers for Notices of Violation and Administrative Citations, as well as other enforcement updates (see slide 5 in the Licensing and Enforcement update presentation). <ul style="list-style-type: none"> ○ With expansion of the STR enforcement team, they have been able to look more closely at every application that comes in and have started requesting more information when necessary. If there is information that requires follow-up, an inspector conducts an investigation. ● David Pardo noted the increase in lodger’s tax collected from STRs from 12.5% to 15%. <ul style="list-style-type: none"> ○ Sophia Hassman explained the STR % of Lodger’s Tax collected will likely go down given reporting periods and AirBnB filing on behalf of taxpayers. ● Cindy Sestrich asked if there were any audits planned. <ul style="list-style-type: none"> ○ Sophia explained it is based on resources and is account-specific. Who is audited and when they will be audited is confidential information. Cindy asked if AirBnB would be audited as a collector. Sophia said AirBnB is subject to their laws and is subject to audit.

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	<ul style="list-style-type: none"> • Questions were asked by several committee members about the Affidavit of Primary Residence. Brian Snow said the existing application was not clear that the application was submitted under penalty of perjury. • Cindy Sestrich asked about Neighborhood Inspection Services enforcement of STRs. Brian said NIS would get involved with smaller Zoning rules (i.e. multiple contracts). He said they were looking at how to enforce that. • Brian clarified that STR complaints are being logged and responded to based on the nature of the complaint and the agency responsible for enforcement. • Buffy had an Airbnb-specific complaint and said it was difficult for her to add a co-host. Brian said Airbnb’s new “products” favor local hosts with many properties. David Pardo explained that the “Friendly Building” was a program that allowed people to rent out their homes in managed buildings that have 24-hr monitoring. Brian said he felt Airbnb was shifting their focus from individual hosts to larger management companies. • Michael Murphy asked if the reports sent to CAO resulted in show cause hearings. Chris Gaddis said they had. Michael asked if the dates of the upcoming show cause hearings are posted anywhere on a public site. Molly said that while hearings for new applications are public since neighbors can oppose or support, show cause hearings are not posted publicly since public testimony is not taken at those hearings.
<p>4. STR Current Events</p>	<ul style="list-style-type: none"> • Molly briefly discussed a few news articles regarding short-term rental rule changes in other cities (see slide 7). • Regarding Glenwood Springs’ new ordinance that puts a 10% housing stock cap on STRs, David Pardo said he believed in Denver it was currently 1%. Brian Snow confirmed it STR’s in Denver make up less than 1% of the overall housing stock.
<p>5. STRAC goal- Bolster Primary Residence Definition</p>	<ul style="list-style-type: none"> • With the 2019 STRAC goals having been identified in previous meetings, the upcoming STRAC meeting agendas will be broken down by issue and the group will be discussing a major priority goal at each meeting. The goal to be discussed today is revising the definition that is in ordinance for primary residence. • After reviewing language from other cities, Molly showed some possible language for a primary residence definition (see slide 9). This is not the language that would actually go into an ordinance but is just being presented at this meeting for purposes of discussion of the concepts.

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- Regarding the draft primary residence definition, David Pardo said people coming to Denver want an experience that is not a hotel or spare bedroom. He said a lot of people do not want to live next to an STR. He said he would like to see a more commercial activity similar to a license category that New Orleans' has created in areas that are not residential. He said that would provide balance between neighborhoods and property owners who want to use additional properties as an STR.
- Cindy Wagstaff stated there are similar models in CA wine country where tourism is prevalent.
- Buffy Gilfoil expressed worry that it would make the STR rules more complex and hard to follow.
- David Pardo said primary residence requirement should remain in place for residential areas, but should be more flexible in mixed-use areas.
- Brian Snow said that currently units can be converted into a lodging facility and obtain a lodging license, giving the example of Stay Alfred, if it is not their primary residence. He said areas like LoDo would not necessarily be amenable to having more commercial short-term rentals.
- Molly restated that a goal of the original ordinance and a goal that STRAC had declared for the year is to prevent a depletion of housing stock due to STR's and to avoid negative impacts of STRs on affordable housing in Denver.
- Molly is going to try to get a representative from the new Department of Housing included on STRAC. This person should be able to provide important context for the group.
- Charlotte Winzenburg said that the new Blueprint Denver expands the neighborhoods that allow for Accessory Dwelling Units (ADU's).
 - Regarding ADUs, Buffy Gilfoil said they are considered a means of maintaining affordability for long-time residents.
- Michael Murphy said HOAs are becoming more restrictive, and some have banned STRs outright. He said there are residential buildings in LoDo that are quiet and residential.
- Charlotte Winzenburg stated that she was in support of the concepts in the new proposed primary residence definition, though she does not think utility bills tell you much.
- Cindy Wagstaff questioned the language about living in the home for at least 183 days and how that would be enforced.

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- Brian said it creates a presumption that can be overcome by the applicant providing alternative information.
 - Susan Bailey said the number of days matches 6 months + 1 day.
- Cindy Sestrich said some of the documentation may be hard to obtain right away.
 - Brian responded the department will require the same documents up-front and some can be obtained right away.
 - Cindy also expressed worry about documents being changed at the time of application and renewal and changed back afterward. She said it is the long-term that is important rather than the moment. A suggestion was made to clarify that the Department can request the information at any time throughout the year, not just at the point of application or renewal.
- David Pardo expressed concern that someone who moves somewhere and travels a lot would have documents with differing addresses. Brian said documents can be provided up-front, but if there are conflicting documents (i.e. tax documents) later on then it would be a problem.
 - Sabrina Zunker asked about someone being away for school for 7 months of the year. Brian said this should get CAO clarification. Molly said there are also options for people gone for extended periods, including 30-days rentals.
- Michael Murphy recommended that criteria 1-4 in the draft are reasonable but criteria #5 should not be required.
- Cindy asked how the department came to the suggested language. Brian said they looked at other cities and took the best language they could find. Molly said the laws are changing rapidly.
- Prompted by Cindy, Chris Gaddis said in terms of a potential show cause hearing it would be important for the applicant to look at the language and determine if they qualify. He said the more concise and clear it is presented, the better.
- Charlotte said if someone is gone for more than 183 days a year, then that person should not conduct a long-term rental.
- David Pardo said there could be tax differences in property taxes, commercial vs. residential.
- Brian said that gets into what constitutes an entire residence being rented rather than a part of the residence, and it gets more complicated.

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	<ul style="list-style-type: none">• Molly said the lodging facility remains an option, which has a high bar in terms of requirements.• Sabrina Zunker went back to the example of someone being gone for 7 months or more for work and said that person is not taking away housing stock. Brian said the only way the department would know that someone is gone for more than 6 months is if there are neighbor complaints because there is a problem.<ul style="list-style-type: none">○ There was discussion about whether or not someone who is gone for several months should be allowed to rent short-term and what the impacts are.• Brian said the definition should create a presumption where the burden is on the applicant to assert that they meet the standards and will be compliant with requirements.<ul style="list-style-type: none">○ Cindy Sestrich felt that this would make enforcement more robust on people who do not follow the rules. She said she still wanted the CAO to say if the language was enforceable.○ Brian said the new application would also make clear that it is submitted under penalty of perjury.• Buffy also made the point of people having unpredictable lives, getting called away from work, etc.• Molly reminded the committee that the city cannot legislate for every scenario. She said the city would assume that a property is not a primary residence if someone is not there 183 days each year, but that a licensee could present evidence to prove otherwise.• Mary Lou Fenili said “A good neighbor is a good neighbor.” She said neighbors would be aware of absences and see that people care about their property and neighborhood.
6. Public Comment	<ul style="list-style-type: none">• Suzanne Banning – Suzanne is a 24-year resident. She said she is unhappy about the AirBnB next door. She said her neighbor bought the property with the intention of running an STR. She said it is frustrating that the neighbors can’t do anything about it.• Bridget Brophy – Bridget left a handout for the committee documenting trash left at the STR. She said there is an issue with smoking of marijuana. She said they are forced inside because the odor is so strong. She said it is problematic for people with children or people who have respiratory issues. She said guests have more rights than residents who pay taxes in the city. She also brought up the issue of fire code issues with lack of egress. She said annual inspections should be required annually.

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	<ul style="list-style-type: none">• Alex Bergin – Alex is an STR guest who travels to Denver frequently. He said he wants Short-Term Rentals to provide value for people like him, providing a place he can work. He said he does not like intruding on a residential neighborhood.• Taylor Hills operates a STR management company in Denver. He said the pattern has been more strict regulations on operators. He asked what is driving it. He said there was a lack of statistics showing how many complaints there are vs. overall guests and compared to long-term rentals. He said it would be .1% of stays in his case.• James Carlson – James said he and his wife are real estate agents. He said there should be clarity in the rules. He said there is currently no clarity and the 183-day rules looks “squishy.” He asked in light of what happened today with the arrest, who would be prosecuted vs. having their license revoked. Brian said he cannot comment on a pending case. James said there is uncertainty for people. Molly said there should be a better definition of primary residence so there is more clarity for all involved, but the current definition is also common sense. Cindy said people are willfully breaking the rule as it is.
7. Other Items	<ul style="list-style-type: none">• Kemi with AirBnB joined via conference call as public comment was starting. Afterwards, Molly asked the status of AirBnB delisting unlicensed advertisements. Kemi said there were decisions made in other cities, such as LA, and they are working with them. Kemi cited the increased compliance rate. She said she was willing to work with Denver as they move toward making changes. Molly said Denver’s goal was having people licensed if they are advertising. Kemi went back to previous efforts, including emails to hosts.• George Mayl mentioned the new city council members. He asked if Airbnb would delist advertisements that are unlicensed. He said he would bring the issue to those new council members.• Molly brought up the draft primary residence definition. She said the next step would be looking at platform accountability, as other cities have done. She said this would move forward since there is no answer from Airbnb about delisting unlicensed advertisements. Kemi said Airbnb had been working with Denver on increased compliance and she said they would be willing to work with Denver going forward. Molly asked the committee generally if going back to monthly meetings would be agreeable.

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8. Next Meeting	<ul style="list-style-type: none">• The group decided that it would be helpful to meet every month for a little while to achieve the 2019 goals. The next meeting will be on Tuesday, July 9, 2019 at 4:00 – 5:30 p.m.
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