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April 30, 2021

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, CA 90012

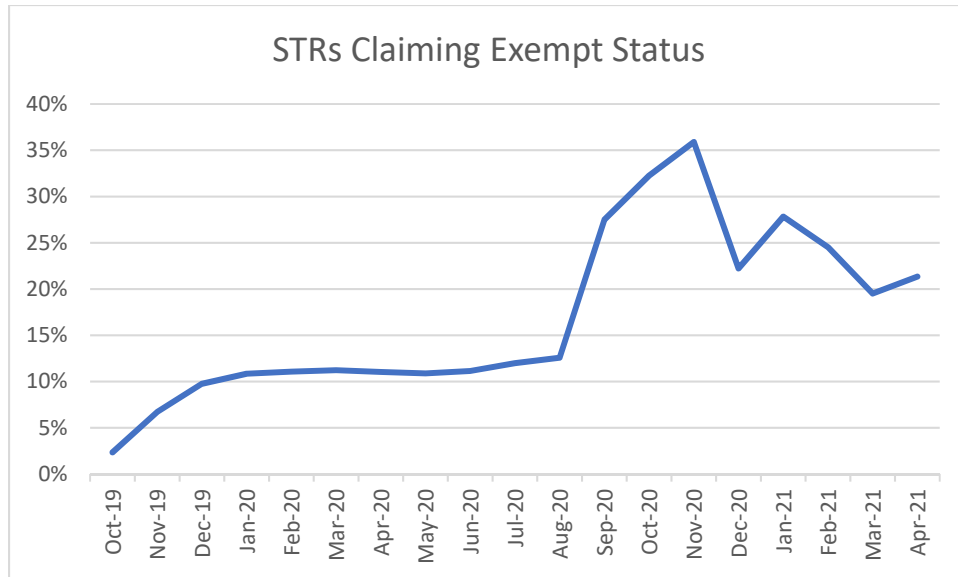
Dear Los Angeles City Council,

In recent enforcement updates we have discussed how thousands of short-term rental hosts evade the City's Home Sharing Ordinance ("HSO") by falsely claiming to be exempt from the Ordinance on Airbnb or by using one of the many platforms not currently subject to a city-approved Platform Agreement. In this letter, we address the role played by the City, specifically the Department of City Planning ("DCP") in abrogating its responsibility to oversee and enforce compliance with the HSO.

Hosts Continue to Falsely Claim their Properties are Exempt from Regulation

The success of the HSO depends on the accurate registration of short-term listings. There are a small number of registration exemptions for permitted Bed and Breakfasts ("B&B"); Hotels and Motels ("Hotels"); and Transient Occupancy Residential Structures ("TORS"). Better Neighbors LA has found that the majority of listings currently claiming to be exempt are doing so improperly. We compared the actual locations of permitted B&Bs, Hotels and TORS to those listings claiming to be exempt. We found that half of the 367 of the listings claiming the hotel-motel exemption were legitimate. Moreover, we determined that not a single one of the 151 properties listed as a B&B nor a single one of the 288 properties claiming to be a TORS were legitimate.

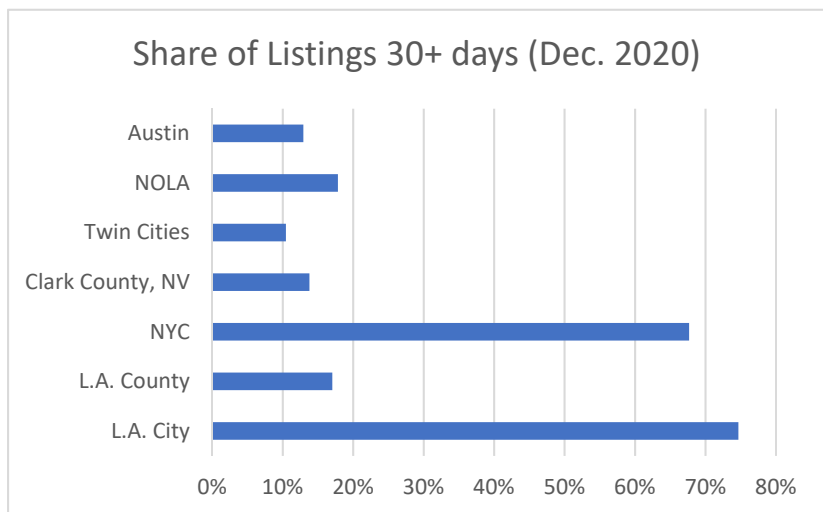
In December, action undertaken by the City appears to have resulted in the purge of hundreds of these improper exemptions and additional illegal listings were purged in February and March. Unfortunately, as quickly as they were removed, the improper exemptions reappeared. New listings are disproportionately likely to claim exempt status. Of all listings associated with "new" LA hosts, defined as those who have joined Airbnb since September 1, 2020, 62 percent claimed to be exempt. That means that LA hosts that have joined since September 2020 are approximately three times more likely to claim an HSO exemption. The disproportionate number of claimed exemptions is suspect and may indicate hosts continue to claim inappropriate exemptions to avoid HSO requirements.



Hosts Game the System in Multiple Ways

Claiming to be exempt from the HSO is only one of the ways that hosts and platforms evade regulation.

The 30-day lie: Since the HSO applies only to “short-term rentals,” many hosts claim that they are not a part of the short-term rental market, because their listings advertise a minimum stay of 30 nights. Yet there appears to be a disconnect between what is advertised as a month-to-month and what transpires, which is a short-term rental. Consider two data points: for most markets, the share of monthly rentals as a percentage of all Airbnb rentals is between 10 and 20 percent; L.A. is a major outlier at 75 percent. This might not be a problem, except for the second data point: in March 2021, 157 “monthly” rentals garnered multiple reviews during the month indicating that they were being rented by multiple guests for fewer than 30 days during that one month, hence a short-term rental subject to the HSO regulations.



Better Neighbors LA (BNLA) conducted its own survey of 30-day listings on Airbnb. We learned of several schemes short-term rental hosts employ to rent 30-day listings for shorter periods. Mechanisms included:

- 1) Completing a 30-day reservation for a discounted rate with the informal understanding that the guest would leave early;
- 2) Charging for a full 30-day stay, but refunding the remainder when the guest leaves after fewer days;
- 3) Creating new listings once an improper short-term rental listing is converted to a 30-day listing; and
- 4) Off-site bookings directly with the host through a different microplatform or no platform at all.

Overall, 29 percent of the listings from which we requested stays shorter than the posted 30-day minimum offered one of the above manipulations to engage in an illegal and off-book short-term rental.

The 120-day lie: The HSO caps annual rentals at 120 days in an effort to reduce the incentive of converting residential housing to tourist accommodations. Our analysis indicates that over 1,000 listings have likely violated the 120-day cap, based on the number and timing of reviews left on Airbnb. DCP has publicly stated that it does not monitor the number of days any unit is rented on a short-term basis. This is a serious enforcement issue that should be addressed by the City.

City Planning Abrogates Oversight Responsibilities

In a March 2021 meeting, DCP Director Bob Duenas stated the department does not collect information on the number of nights occupied. He left unanswered if or how there is any tracking of the 120-day cap at all.

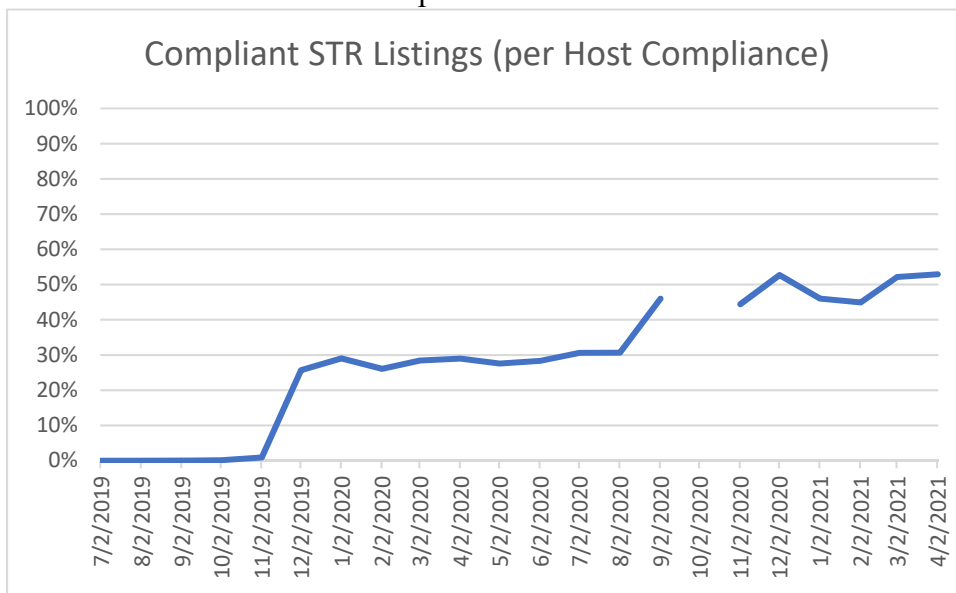
In the same meeting, Mr. Duenas made incorrect claims about the breadth of compliance across the industry. While we have identified approximately two dozen platforms active in Los Angeles, only four have even feigned compliance. Airbnb is the only platform to have a formal agreement with the City. DCP has admitted that only one other platform (One Fine Stay) complies with the HSO through regular disclosures as required by the HSO.

HomeAway and Booking.com are two well-known host platforms which are currently operating outside of any oversight under the HSO. Booking.com represents that it does comply with the HSO, though only voluntarily. In a letter to DCP dated November 15, 2019, Booking.com claimed that the HSO does not apply to the platform and it is not obligated to comply. HomeAway likewise claims to voluntarily adhere to the HSO, but neither platform has complied with the HSO's monthly disclosure requirements. DCP has not compelled these host platforms' compliance. As a result, Booking.com and HomeAway have operated outside of any DCP oversight. Of course, these are only two of several platforms offering short-term rentals in Los Angeles that also have not submitted the monthly disclosures necessary to ensure HSO compliance. DCP has not sought to compel required disclosures from any host platform.

This lack of oversight appears connected to a loss of revenue. Proponents of an expanded HSO often tout the potential for revenue generation, but it is not clear that STR activity leads to the appropriate payment of Transient Occupancy Taxes (TOT) to the City. According to the City Office of Finance, only three platforms (of approximately two dozen) have Collection Agreements related to the submission of TOT, and only about 600 individual hosts (of approximately 4,000) have recorded TOT certificates.

Comparative Data and the Tip of the Iceberg

For contextual purposes, and as a contrast to BNLA’s analysis of the market, we can examine the data prepared by city contractor Host Compliance and used by DCP. The monthly reports submitted by Host Compliance show improvement over time, but even today barely half of all short-term rentals are compliant with the HSO.



The visible part of the iceberg may be shrinking modestly— in some places. But (a) even DCP acknowledges that fully half of what we can see may be non-compliant, and (b) we have just seen indications that the invisible part of the iceberg may be significantly larger than previously expected.

Sincerely,

/s/ Randy Renick

Better Neighbors LA