Community Consequences of Airbnb, Allyson E. Gold

This is a summary of a much larger article. Readers are encouraged to download and read the entire document.

Intro

Debates rage about the effects of the sharing economy, which has dramatically transformed the way consumers access the marketplace. Using a smartphone, a person can book a pet sitter on Rover, order dinner delivery through Seamless, and set up a visit from their own private masseuse on Soothe—all from the backseat of their Uber. The benefits of such apps can be tremendous, but these gains may be accompanied by far-reaching and unintended consequences.

According to Airbnb, it “uniquely leverages technology to economically empower millions of people around the world to unlock and monetize their spaces, passions and talents to become hospitality entrepreneurs.” Airbnb’s positive effects for users, and on the local economy, however, are not without their costs. The growth of Airbnb rentals within a jurisdiction is linked to the loss of long-term rental accommodations. For jurisdictions already grappling with an affordable housing crisis, an influx of Airbnb listings and the attendant consequences threatens the stability and vitality of the community.

Opponents of short-term rental accommodations are primarily concerned with “commercialization of residential neighborhoods.” Where once there were communities of mutually invested neighbors, now there are tourists with needs that may conflict with those of permanent residents. The reality of professional hosts with numerous listings is at odds with Airbnb proponents’ characterization of the platform as a way for average homeowners to subsidize their incomes.

I. Effects of Short Term Rentals

Airbnb started as a way for locals to earn extra money by renting spare rooms to tourists. Today Airbnb has more than four million listings—more than the top five hotel brands combined.

A. Positive Effects for Individuals and the Community. The benefits of short-term rental platforms to guests are readily apparent. The ability to book a short-term rental rather than a hotel can be attractive to guests for a variety of reasons.

1. Wealth Accumulation for Hosts Sharing homes on Airbnb allows hosts to realize increased capital through two channels of wealth accumulation. First, new income is available to the host via the short-term rental platform, which raises total income. Second, as the home’s potential to generate additional income rises, its total value as an asset grows, leading to increased home equity for the host.
2. Local Economic Impact. Airbnb’s own research suggests that short-term rental platforms may have a positive effect on the local economy. By providing accommodations to tourists, short-term rental platforms help draw more people, and their dollars, to an area.

3. Not all economists agree on the extent of economic gains attributable to Airbnb. Analysis by the Economic Policy Institute (EPI) suggests that they are “much smaller than commonly advertised.” According to the EPI, studies touting alleged economic gains ignore the fact that most spending would happen anyway, absent the Airbnb option, as travelers opt instead to stay in hotels and other accommodations. As a result, they “vastly overstate the effect” of Airbnb on the local economy.

B. Effect on the Local Housing Market

Airbnb lauds its service as a mechanism to allow underutilized resources to be put to use. However, in collecting a fee to share space in their homes, hosts gain a financial benefit while imposing costs on their neighbors and the surrounding communities. The surrounding community experiences a loss of affordable housing, increase in average rental prices, and changes in neighborhood character.

1. Loss of Long-Term Rental Accommodations

Homesharing diminishes the available housing stock and exacerbates the affordable housing crisis by converting long-term rental accommodations to short-term rentals. Airbnb has removed 13,700 long-term housing units from the rental market in Montreal, Vancouver, and Toronto. The rate of Airbnb expansion—and its effect on the rental markets—outpaces the policies meant to protect cities from a loss of affordable housing. In some neighborhoods, Airbnb growth far surpasses new construction, resulting in a net loss to the available housing stock.

2. Increase in Average Asking Rents

The rise in popularity of Airbnb in a jurisdiction increases average rents in that area. Airbnb and other homesharing platforms function to “reallocate[e] their properties from the long- to the short-term rental market,” thereby increasing rental costs.

3. Changes to Neighborhood Composition

As landlords convert their units from long- to short-term rentals, striking changes appear in neighborhood character. Where once there were communities of mutually invested neighbors, now there are tourists with needs that may conflict with permanent residents. These conflicts result in decreased quality of life for long-term residents. An influx of rental units “reduces the cohesion in the neighborhood, reduces the number of people who are invested in the neighborhood, and damages businesses that serve the local population.”

   a. Influx of Commercial Interests
A significant portion of the Airbnb market consists of commercial hosts—those with more than one listing. The large number of listings held by a single host suggests that commercial operators benefit from lax regulations of short-term rentals. The increased presence of commercial hosts drives changes to neighborhood character. In fact, the twenty-five highest grossing Airbnb hosts in the United States each made more than fifteen million dollars in 2017 off hundreds of units each. That professional entities with hundreds, if not thousands, of units are profiting most greatly from the platform is at odds with Airbnb's characterization of itself as way for average homeowners to subsidize their income. As one Silver Lake Neighborhood Council member said, “it's supposed to be a spare room—not corporate interests taking over our neighborhood and turning everything into a virtual hotel.”

b. Decrease in Neighborhood Social Capital

“Social capital it is the glue that holds societies together and without which there can be no economic growth or human well-being.” The foundation of social capital is that “social networks have value.” The concept incorporates “not just warm and cuddly feelings, but a wide variety of quite specific benefits that flow from the trust, reciprocity, information, and cooperation associated with social networks.” As Airbnb listings change the character of the neighborhood, and as residents are displaced by the influx of tourists, social capital declines. As a Nashville resident noted, living in close proximity to an Airbnb accommodation feels uncomfortable all the time because you don’t know what to expect . . .

II. Racial Implications of Short-Term Rental Platforms

Short-term rentals affect minority users along multiple dimensions. First, Airbnb users experience discrimination along racial lines. Second, growth in Airbnb listings correlates with gentrification in historically minority-occupied neighborhoods. Third, Airbnb concentrates wealth along racial lines.

A. Airbnb and discrimination

Hosts and guests on Airbnb are encouraged to provide their names, photographs, and interesting biographical information. However, the use of personal information provides opportunity for discrimination.
   i. Discrimination against guests
   ii. Discrimination against hosts

B. Airbnb and gentrification: In light of the relationship between Airbnb and reduction in long-term affordable rental housing from the market, there are questions about whether Airbnb contributes to gentrification.
   a. There is a strong correlation between short-term rentals and gentrification.
      Studies suggest that Airbnb disproportionately benefits white hosts even in
predominantly Black neighborhoods. A study of the effect of short-term rentals on New Orleans noted that while neighborhood impacts vary, **what happens in one neighborhood affects other neighborhoods**—middle-income residents priced out of a rapidly gentrifying neighborhood might end up moving to a lower-cost neighborhood, which could cause the displacement of low-income residents from their once affordable community as costs rise with the demand for housing by a higher-income group.

Despite increased rental rates, landlords realize greater economic gain from short-term rentals to tourists than renting to long-term residents, especially in gentrifying neighborhoods.

2. **Resident Replacement**: “the growth of tourism and the consequent conversion of housing into accommodation for visitors” results in collective displacement. **Studies supports the notion that Airbnb produces financial rewards for hosts at the expense of low-income communities of color;** as residents are priced out of middle-class neighborhoods. This creates a vicious cycle wherein rents increase in the new neighborhoods, pushing out long-term residents.

4. **Concentration of wealth along racial lines**
   a. Discrimination on short-term rental platforms, combined with gentrification, functions to displace low-income and minority residents while simultaneously concentrating wealth among white property owners.

III. **Current Regulations Governing Short Term Rental Platforms**

Given their localized effects, regulations of short-term rentals typically occur at the city level. However, spurred by efforts of municipal ordinances, **many state governments have taken measures to regulate the effects of short-term rentals.** Arizona, Idaho, Indiana, Florida, Tennessee, and Wisconsin enacted legislation to prevent local jurisdictions from prohibiting or unreasonably restricting all short-term rentals.

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A. **Traditional Conceptualizations of Property Rights**

Property rights are often understood as a “bundle of rights that may be exercised with respect to that object—principally the rights to possess the property, to use the property, to exclude others from the property, and to dispose of the property by sale or by gift.”

However, while a property owner has broad rights with respect to the disposition of the property, the legal system governs “how these decisions must or may be carried out.” Contracting to let a property via a homesharing platform like Airbnb raises questions about which rights in the “bundle” apply to the agreement. **Airbnb fastidiously uses the terms “host,” “guest,” and “share” to discuss the arrangement between parties.** Instead of renting a space, a host can “share any space . . . from a shared living room to a second home and everything in-between” with guests. Despite this careful use of language, whether a short-term rental arrangement is a landlord/tenant agreement, a hotel/lodger agreement, or something in the middle informs what regulations apply to both the host and the guest.
Several regulations are imposed on hotels including antidiscrimination regulations, ADA compliance, tax collection, health and safety standards, and commercial liability insurance, among others. Currently, most jurisdictions do not hold Airbnb listings to the same battery of regulations to which hotels are subjected.

The absence of traditional commercial zoning regulations means that while hotels are confined to areas designed for commercial activity, short-term rentals are largely unrestricted.

Challenging Regulations as an Impermissible Taking

The degree to which the government may restrict a landowner’s use of her own property is a longstanding legal question that predates the era of online homesharing platforms. In Cope v. City of Cannon Beach, the Supreme Court of Oregon considered whether a municipal zoning ordinance prohibited transient occupancy was a taking under the Constitution. Landowners challenged the ordinance as an impermissible taking without providing just compensation in violation of the Fifth and Fourteenth Amendments.

The Court applied the Supreme Court’s analysis in Agins v. Tiburon, 193 noting that a regulation “effects a taking if the ordinance does not substantially advance legitimate state interests . . . or denies an owner economically viable use of his land.”

In finding for the City of Cannon Beach, the Supreme Court of Oregon stated that the ordinance substantially advanced the legitimate governmental interest of “securing affordable housing for permanent residents and in preserving the character and integrity of residential neighborhoods” and that there was a nexus between the regulation and interest served. The court further stated that the ordinance did not deny owners an economically viable use of property. The court did, however, concede that rentals of dwellings for periods of fourteen days or more and owners residing in their property themselves “may not be as profitable as are shorter-term rentals . . . they are economically viable uses.” Contemporary ordinances banning or curtailing Airbnb use have yet to be challenged as a taking. Given, however, the effects of Airbnb on the local housing market, as well as its role in accelerating gentrification, it is likely that a court applying the Cannon Beach and Agins analysis would find for the local jurisdiction, rather than the Airbnb host.

B. Host Accountability Measures

a. Updated Zoning Laws and Licensing Requirements

In response to the growth of homesharing platforms, many jurisdictions have created a new type of land use in their zoning ordinances. The new zoning categories accommodate short-term rental land use, reflecting the multifaceted purposes of the properties.

b. Restrictions on Eligible Hosts, Length of Rentals, and Available Locations
i. Updated Zoning Laws and Licensing Requirements

To prevent a decrease of affordable housing stock, policymakers have imposed limitations on who is eligible to rent out short-term accommodations.

Airbnb was founded on the premise that hosts could earn extra money by renting out available space—a spare room or even a couch—in their homes. As the model exploded in popularity, the profile of hosts changed. Instead of mom and pop hosts, it is common for owners of multiple properties to make available several whole-home listings on Airbnb, functioning as commercial property owners.

In San Francisco, for example, only permanent residents may become short-term rental hosts.

In Los Angeles, the definition is even more restrictive. Los Angeles short-term rental hosts may only rent their primary residence, defined as where the host lives for more than six months of the year.

Amsterdam limits hosts to renting thirty nights annually.

In Santa Monica, California, renting an entire residence for less than thirty days is banned completely.

2. Limiting Short-Term Rentals in Certain Areas

To prevent the erosion of neighborhood character, some jurisdictions severely limit which neighborhoods may have short-term rentals. In New Orleans, short-term rentals are banned from most of the iconic French Quarter.

In Tuscaloosa, Alabama, short-term rentals are strictly limited to only three areas of the city.

Other cities limit short-term rental density based on the neighborhood’s zoned use. In January 2018, the Nashville City Council voted 19–3 to phase out non-owner occupied short-term rentals from areas zoned for residential use.

C. Monitoring and Enforcement

Regulation of short-term rentals raises questions regarding enforcement. Despite official requirements, many hosts do not comply with licensing registration regulations.

D. Policies to Address Discriminatory Practices and Concentrations of Wealth Along Racial Lines

3. Recommendations

The following recommendations speak to the core principles of short term rental policy reform, but it is also imperative that policymakers engage the community in their response. Policymakers must adopt approaches that conform to the following overarching principles:
- **Protect affordable housing stock**, 
- Prevent hotelization of residential neighborhoods, 
- Create avenues for diversity of wealth accumulation, and 
- Eliminate opportunities to discriminate on homesharing platforms.

**a. Protect Available Housing Stock**

As hosts realize additional income and equity from underutilized resources, market pressure increases to convert long-term rentals to short-term accommodations. However, doing so depletes local affordable housing stock. Given the dearth of affordable rental housing, the pressure to convert long-term rental stock to the Airbnb market stresses an already under-resourced market.

**b. Prevent Hotelization of Residential Neighborhoods**

Preventing hotelization—fundamentally changing the nature of residential neighborhoods through proliferation of commercial accommodations—is essential to control noise and unsanitary conditions, and maintain a community’s social fabric.

Local governments should contemplate limits on the number of licenses that a single individual may hold.

Finally, short-term rental accommodation policy should restrict the number of days a whole-home accommodation may be rented in a given year.

Renting a spare room or couch in one’s home and a whole-home accommodation are different types of accommodations, with different effects on the local community. **The law should treat them as such.**

Because the permanent resident is present, the social fabric of the community is maintained. In contrast, a whole home listing leads to a revolving door of short-term residents who are unfamiliar with neighborhood policies and lack the motive to invest socially in the community. **Given the disparate effects, lawmakers should cap the number of nights a whole-home accommodation may be listed in a given year.**

**c. Create opportunities for Diversity of Wealth Accumulation**

While policymakers must take steps to limit Airbnb density and prevent the hotelization of residential neighborhoods, regulations must create meaningful opportunities for a multiplicity of hosts to realize economic benefits of short-term rental accommodations.

**d. Eliminate opportunities to discriminate on Homesharing Platforms.**

As the Congressional Black Caucus noted in its letter to Airbnb CEO Brian Chesky, it is “seemingly so easy to discriminate against someone via Airbnb’s internet platform.” Eliminating discrimination on the platform will require lawmakers and Airbnb to enact a variety of measures. First, lawmakers must categorize unhosted Airbnb listings as public accommodations under Title II of the 1964 Civil Rights Act.
Conclusion

Airbnbs can provide a boon to hosts and guests. By converting a previously underutilized asset into a short-term rental accommodation, hosts gain a new income stream and increase their home equity. Guests, too, benefit from Airbnb’s platform, as the accommodations are typically more affordable than traditional hotels and provide an opportunity to “live like a local.”

These gains, however, come at a cost. While individual hosts and guests may benefit economically, the local housing market experiences significant change in the form of fewer affordable housing options and erosion of neighborhood social capital.

At the same time, discrimination on Airbnb’s platform means that the benefits and consequences are not evenly distributed, with economic gains accruing disproportionately to white users.

As Airbnbs continue to gain popularity, it is essential that legal strategies support their economic benefits while curtailing community harms.

**Adopting multi-faceted and comprehensive approaches are necessary to protect affordable housing stock, prevent hotelization of residential areas, and create meaningful opportunities to benefit from participation in the short-term rental market.**