

Responding to Industry Arguments

“Why can’t a homeowner just make a little money renting a spare room or two in their home?”

Private property rights are among the most-cherished in American society, which is why any argument for citizens to use their homes how they wish is a compelling one. However, no right, Constitutional or otherwise, is an unlimited one. When the use of one neighbor’s property infringes on the quiet enjoyment of another’s those rights have been overstepped. Tennessee courts have recognized the value and legality of zoning and nuisance laws as necessary for protecting the private property rights of Tennessee citizens. Cities in Tennessee have used zoning law for the past 80 years as the primary tool for creating the circumstances where property owners maximize the use of their property without infringing on the use of their neighbors.

A homeowner renting a spare room or two in their home is often presented as the most typical scenario for short-term rental “hosts,” but a review of rental sites and industry data demonstrates this is the exception and not the norm. The vast majority of rentals available on AirBNB, VRBO, and HomeAway are for the entire home. Moreover, industry analysts point to the fact that many of the owners advertising through these services host *multiple* homes for rent. This is commercial enterprise and not simply renting out a room for some extra money. It’s profitable too. As of August 6, 2016, [AirBNB valued itself at \\$30 Billion](#) according to their own corporate filings.

Cities use zoning standards to determine where grocery stores, convenience stores, hospitals, restaurants, flower shops, dog kennels, car repair garages, barber shops, child care facilities and all other commercial enterprises may locate. Similarly, local standards have determined where hotels, motels, apartments, bed and breakfast entities, and boarding houses operate. Why should short-term rentals be the only commercial enterprise and only lodging establishment that exists outside of local authority and potentially in conflict with community standards and desires?

“Owner-occupied and non-owner occupied rentals should be treated the same.”

When a property owner is present while renting out his property the possibility that guests will do anything that disturbs the quiet enjoyment of neighbors greatly diminishes. A property owner who resides in the rental is well aware of community standards, and his own self-interest in maintaining good relationships with his neighbors while he lives in the neighborhood makes unwanted incidents less likely.

When an owner doesn’t reside in their rental home unchecked guest behavior isn’t the only concern. A non-owner occupied rental becomes a vacant home in the time between guests. This could be as long as a few days, a few weeks, or more.

The proliferation of non-owner occupied rentals also threatens the availability of affordable housing stock. This changes the fabric of residential neighborhoods as investors are competing with couples trying to purchase homes, limiting availability and driving up prices. A commercial enterprise replaces what could be a family home, meaning one less family attending school, attending church, participating in local government, and contributing to the community. The rising costs also potentially keep those who work in a community from choosing to live there as they are priced out of the market.

“Leasing a single-family home in neighborhoods has been a practice for a long time. So, why are short-term rentals any different?”

Most single-family home leases are for a year. Someone renting for this period of time is committing to the neighborhood as a resident, making a home for that period of time and possibly renewing their lease to stay longer. During this residency they are paying bills for utilities and phone or cable services. The furniture and household items are most likely their own. Their children are attending local schools and they may be attending a local church. There is a sense of ownership and care not only in the property but in the community at large.

This contrasts sharply with a short-term renter who is simply visiting, possibly to never return. Short-term renters are transient, neighbors don't know who they are, and they change as frequently as the home is rented. Short-term renters have no need to be committed to the community. Tennessee citizens have complained to their local governments that they are concerned about safety and stability as the neighborhoods they chose to raise a family in are being reshaped by this disruptive commercial enterprise.

“Cities already have nuisance ordinances to handle issues with short-term rentals.”

It's true with crime, with health care, and with protecting our children: prevention is better than reaction. Nuisance enforcement is reactionary, an after-the-fact response to an issue or problem. This also necessarily involves delays and costs as a remedy is pursued. When the citizens of a community act through their local government to enact zoning to manage short-term rental usage in their neighborhood they are being proactive, using the tools already available to cities and towns to prevent unwanted incidents.