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Battle Between NYC And Airbnb Resumes

Stephen Lasser · Friday, August 10th, 2018

Since 2010, renting out apartments in multiple dwelling for a term less than 30 days has been illegal in New York State under § 4 of the New York Multiple Dwelling Law (the "N.Y. Mult. Dwell. Law"). As discussed in our December 20, 2016 post "Airbnb Settles with New York State: New Developments in Short-Term, Rental Law," in 2016, Airbnb challenged a new provision added to the short-term rental law, § 121 of the N.Y. Mult. Dwell. Law, which levied fines for posting advertisements for apartment rentals under 30-days. Airbnb challenged the new provisions because the law did not clearly identify who would be fined for violations of the law. The lawsuit settled after the NY Attorney General's office clarified that the fines would not be levied against companies such as Airbnb who are merely hosting sites for rental posting and that, instead, the fines would be imposed against hosts who post short-term rental listings.

Airbnb's battle in NY was recently reignited. On August 6, 2018, Mayor de Blasio signed into law an amendment to NYC's Administrative Code that requires accommodation booking service companies, like Airbnb, to report the names and addresses of the hosts using their sites to the NYC Office of Special Enforcement (the "OSE") every month; refusal to comply could result in civil penalties. The law is aimed at facilitating the OSE's efforts to catch individuals who violate § 121 of the N.Y. Mult. Dwell. Law. While Airbnb is still considering its options for challenging the new law enacted on August 6th, Airbnb is already challenging the scope of a subpoena served by NYC in connection with an existing short-term rental dispute. The subpoena requires Airbnb to turn over host and guest information for the last seven years in relation to NYC's ongoing lawsuit against Big Apple Management, who allegedly illegally converted apartments into short-term rentals for tourists in seven of its buildings.

Unless Airbnb successfully challenges the latest amendment to the NYC's Administrative Code, we can expect the OSE to take more aggressive efforts to curtail illegal short-term leasing by requiring Airbnb and similar companies to provide host information to facilitate enforcement. NYC landlords and co-op and condo boards can file a complaint with the OSE through NYC 311 by phone or online if there is suspected illegal short-term leasing activity in their buildings.

This article was co-authored by Dominique Miller and Stephen M. Lasser, Esq.

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