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New Airbnb Law, Building Registration Process

Stephen Lasser · Friday, February 10th, 2023

On February 3, 2023, the rules implementing NYC's Local Law 18 "Short-Term Rental Registration Law," were published by the Mayor's Office of Special Enforcement ("OSE") and it looks like they may be the most effective tool to date to combat illegal short-term rentals in New York City in residential condos, co-ops and rental buildings.

The Short-Term Rental Registration Law was passed last year by the New York City Council and the newly published rules go into effect on March 6, 2023. The rules require anyone seeking to rent out housing in New York City for fewer than 30 consecutive days to register with the OSE, obtain a registration number, and display that registration number on their listing. The new law prohibits sites such as Airbnb, VRBO, Booking.com from posting listings for unregistered short-term rentals.

One key aspect of Local Law 18 is that it creates entire categories of accommodations that cannot be registered as short-term rentals. Specifically, apartments cannot be used as short-term rentals if they are (1) rent controlled, (2) rent stabilized, including any property subject to RPTL 421-a regulations, (3) subject to Mitchell Lama regulations, (4) part of New York City Housing Authority housing, or (5) a property in receipt of a subsidized mortgage and under New York City Department of Housing Preservation and Development supervision, such as HDFC's.

Local Law 18 gives condo and co-op boards and other residential building owners the power to place their buildings on a "Prohibited Buildings List." Thus, where a board or building owner has determined that short-term rentals are not allowed and registered the building on the Prohibited Building List, OSE will refuse to register any apartment in such a building and must notify a building owner of the submission of any registration application for an apartment therein; this gives co-op or condo boards and building owners the chance to take action against the applicant before an apartment is rented on a short-term basis.

Where a residential condo or co-op building is not registered on the Prohibited Buildings List, Local Law 18 requires condo unit owners and co-op shareholders to certify that they are the legal owner or tenant of the unit, hosting does not violate the terms of their proprietary lease or by-laws, and the apartment complies with all applicable legal requirements for short-term occupancy, including construction codes.

Local Law 18 now joins the list of state laws enacted in New York applicable to short-term rentals, i.e., §4(8)(a) of the NYS Multiple Dwelling Law, which prohibits using Class A dwellings for non-permanent residents (see related article) and §121 of the NYS Multiple Dwelling Law, which

prohibits advertising that promotes the use of dwelling units in a class A multiple dwelling for other than permanent residential purposes (see related article).

Please feel free to contact Lasser Law Group, PLLC for more information on Local Law 18 and its implementation.

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