



## **Airbnb Settles with New York State : New Developments in Short-Term Rental Law**



Airbnb is a global technology company with huge revenues that facilitates apartment rentals by owners and tenants to third parties, often tourists, on a short-term basis. Airbnb reached a settlement with New York State earlier this month, which dropped the lawsuit Airbnb brought challenging a new law that went into effect in October 2016, which would have levied fines from \$1,000.00 to \$7,500.00 for advertising apartment rentals under 30 days in length. Although short-term apartment rentals have been illegal in New York since 2010, Airbnb has continued to operate in a grey zone because enforcement has proven to be difficult. The new law was intended to curtail use of Airbnb and similar apartment sharing websites by issuing fines when short-term rentals were advertised.

Airbnb responded to the new law by filing a lawsuit and arguing that the language of the new law was unclear about who the fines would target, Airbnb or the platform's hosts who rent out their apartments. In addition, Airbnb argued that the new law violated the Federal Communications Decency Act of 1996, which protects internet publishers of third party content from liability.

Airbnb dropped the lawsuit after settlement discussions with the NY Attorney General's office clarified that the new law would seek to issue fines against apartment dwelling hosts and not companies like Airbnb who only publish rental postings. Although the lawsuit was settled, enforcement of the new law is still an open question. Currently, in large cities such as NYC, the mayor's office is tasked with enforcement of the law locally, but due to limited resources it remains to be seen whether the new law, which fines apartment hosts, will have a significant impact on governmental regulation of short-term rentals.

However, most residential leases and many cooperative proprietary leases and condominium by-laws already prohibit short-term rentals and these documents also often prohibit illegal activity. As a result, the October 2016 amendment of the short-term rental law has created a new category of illegal activity "advertising short-term rentals," which landlords and boards can use as a basis to commence legal action to help eliminate short-term rentals even if NY State and local government agencies do not actively enforce the new law.

**Date:** 20-12-2016



Lasser Law