

# Addressing the Rise of Vacation Rentals and Uber: Tactics and Trends

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A stylized teal city skyline is visible in the background, featuring various geometric shapes representing buildings and structures. The skyline is composed of several vertical and horizontal lines of different heights and widths, creating a modern, abstract cityscape.

# Impacts on Cities

- Financial
- Housing Stock
- Safety Issues
- Quality of Life
- Unforeseen Externalities



# Obstacles to Enforcing a Vacation Rental Ordinance:

- Privacy rights can hinder investigations
- Operators range from unsophisticated to highly savvy
- Evidence can be difficult to acquire
- Financial Temptation
- Personal “feel” to operation



# Taxation

## Short Term Rentals are Subject to Transient Occupancy Tax

- Must have an ordinance that encompasses the practice
- If the language is not broad enough, the language will have to be amended
- Can be a substantial revenue stream



# 3 Types of Ordinances

- Bans
- Practice allowed, but generally subject to taxation
- Hybrid systems which allow the practice in some areas or some forms, but not others



# Vacation Rental Bans

- Easier to Enforce than Hybrid Ordinances
- Pushes rentals underground
- Financial penalties ineffective
- Banning Advertising



# WEST HOLLYWOOD CITY HALL



## Hybrid Ordinances

- San Francisco
  - 90 Day Cap
  - Must Live in Unit for 275 Days per year
  - 14% Transient Occupancy Tax
  - Does not apply to single family homes
- Santa Monica
  - Homesharing Allowed
  - Other Short Term Rentals Banned
  - 14% Transient Occupancy Tax

# Malibu's Regulation of Vacation Rentals

Malibu's Regulation Scheme has two key parts:

- **Transient Occupancy Tax Ordinance**
  - Operators must register with the City
  - 12% Transient Occupancy Tax
  - Operators must maintain records for 3 years
  - Tax submitted to the City quarterly
- **Special Event Permit Ordinance**
  - Limited to 4 events per year
  - Permit required in advance

# Enforcing a Vacation Rental Ordinance

- Put the time into investigation
  - Everyone advertises; take advantage
  - Build a file for each property
- Education is the easiest, and cheapest, way to increase compliance
  - Results can be dramatic, especially if operators see that enforcement is a priority for the City.
- While education is the foundation of a good enforcement program, it needs to be paired with direct enforcement to be effective.



# Malibu's Enforcement Program



- Once violators are identified, request records
- If records are incomplete or not produced, issue subpoena for records to operator
  - It's harder to ignore a judge than a letter from the city
- Alternatively, the city can immediately assess tax and penalties based on known violations

# Legislative Subpoena Basics

- Every City has the power to issue legislative subpoenas
  - General Law Cities: codified in Government Code sections 37104-37109
  - Charter Cities: broader power which stems from Article XI sections 3(a) and 4(e) of the California Constitution, often detailed in a city's charter
- Requirements
  - Signed by Mayor and attested by City Clerk per Gov't Code § 37105
  - Served pursuant to CCP section 1987 (the same as a civil subpoena)
- Consequences
  - Failure of subpoenaed party to obey/appear or answer questions shall be reported by the mayor to the superior court. Gov't Code § 37106.
  - Judge will review subpoena, and issue an attachment or OSC requiring the subpoenaed party to appear in court. Gov't Code § 37107.
- If subpoenaed party is not physically present in the county where the court is located the subpoena may be difficult to enforce.

ME COURT OF THE STATE OF NEW YORK  
TY OF ALBANY



SCHNEIDER, Attorney General  
ate of New York,

Respondent.

#TheShortAns



# Taxation Issues Redux

- Benefits to allowing (but taxing) short term rentals
- Back Taxes

# Senate Bill 593

- Requires Hosting Platforms to Directly Collect TOT
- Requires Hosting Platforms to Submit Quarterly Reports to Cities
- Bars Hosting Platforms from Facilitating Illegal Rentals



- Transportation Network Company: Prearranged Travel
- Exclusively Regulated by State
- Cities Cannot Require these Businesses to:
  - Acquire a City Franchise or Operating Permit (except for a municipal airport)
  - Pay City Business License Taxes (unless offices in the City)
  - Comply with Local Taxi Rules and Regulations
- Landscape May Change Quickly

U B E R



