Lynda Budiman, Leah Chernoff, Guy Goldstein, Akash Govindarajula

Airbnb's Struggle against Tighter Regulations Across American Markets

INTRO TO AIRBNB

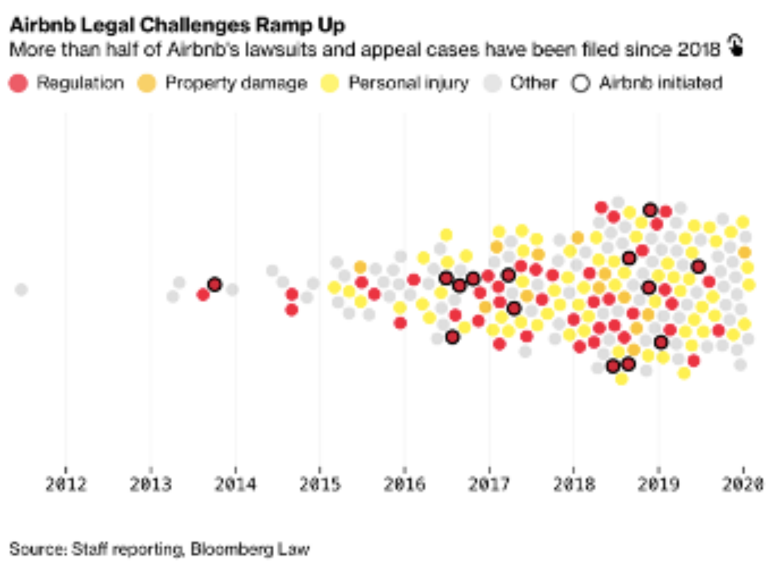
Airbnb was born out of a simple idea: *what if you could book a place to stay in someone's home like it was a hotel room?* Roommates Brian Chesky and Joe Gebbia were short on rent in San Francisco and found out hotels were sold out everywhere for an upcoming design conference; they advertised their air mattresses to conference attendees and had three people stay with them for the weekend. The success of this experience gave them an idea for a new startup blending technology, the hospitality industry, and human curiosity; they brought in friend Nathan Blecharczyk and Airbnb (at the time, airbedandbreakfast.com) was founded in 2008.

What started as a way for a couple of cash-strapped roommates in San Francisco to make some extra money and some new friends has ballooned into a multi-billion-dollar business and a household name to travelers everywhere. Airbnb functions as an online marketplace where homeowners and travelers looking for places to stay can connect; they charge a commission fee for each booking as a means of generating revenue. Similar to fellow unicorns Uber and Lyft, Airbnb does not own any of the properties listed on its website; rather, it retains its distance based on the marketplace structure and thus can maintain that it is first and foremost a technology company. While its structure differs in many ways from the traditional hotel industry, Airbnb has become a fierce competitor in the space as more and more travelers opt for unique or more affordable Airbnb properties over larger hotel chains or small bed-and-breakfast operations.

The marketplace structure and "technology company" positioning of Airbnb ties into many of the regulatory battles it faced (and still faces) while rapidly scaling, some of which are detailed in the next section. The lack of precedent for a company of this type in the hospitality space means that regulators have been building the plane as it flies, trying to regulate behaviors while also trying to understand how the system works and what the biggest risks are to various stakeholders (the public, local and state officials, homeowners, large property owners, and more). This means that the regulatory actions that occur in each local Airbnb market have the potential to impact policies in many other markets, which makes Airbnb's beyond market strategy both complex and vitally important.

AIRBNB'S REGULATORY STRUGGLES IN US MARKETS

When it comes to regulatory issues, Airbnb is a frequent flier. Airbnb is known to be one of the most litigious startups in Silicon Valley and the number of cases has been ramping up, as shown in the figure below. The world's biggest home-sharing company has been fighting short-term rental regulations across the US since it was founded in 2008, in an attempt to gain its legal status and protect thousands of listings. The next three stories exemplify some of the issues Airbnb faced in top US cities and how they attempt to change the rules of the game.



NASHVILLE - Blocking New Laws

The regulatory issues in Nashville began in late 2017 and early 2018 when Airbnb declared that they complied with the laws requiring them to collect and pay local taxes for the hosts (part of what is known as a Voluntary Collection Agreement, or VCA). However, they were allegedly forestalling such laws at the same time, effectively stripping cities of authority over short-term rentals and related tax revenue. When the city of Nashville was looking to prohibit "mini-hotels"--non-owner-occupied homes used exclusively as vacation rentals--Airbnb reacted by lobbying and influencing directly at the state level. Soon after Nashville passed its ordinance prohibiting mini-hotels, Airbnb established a political action committee called the Committee to Expand the Middle Class and donated ~$10,000 to groups representing Tennessee Republicans, including a donation to the campaign of state representative Cameron Sexton. Sexton, in consultation with Airbnb and other short-term rental companies, introduced a bill in 2017 specifying that short-term rentals are *not* considered hotels under state law (Short-Term Rental Unit Act). This state law included a provision that strips cities of the power to ban existing short-term rentals. The Short-Term Rental Unit Act was passed by the Tennessee General Assembly in April 2018, thereby circumventing Nashville's ordinance of prohibiting mini-hotels and allowing Airbnb to continue operations as usual.

<u>SAN DIEGO – Referendum Success</u>

San Diego is one of the fast-growing markets for Airbnb, where its use has skyrocketed from around 2,600 listings in 2015 to more than 11,500 by 2019. Two-thirds of short-term rentals in San Diego are posted on Airbnb and according to councilmember Barbara Bry, the rise of full-time investor-owned short-term rentals in residential areas has hurt enrollment in public schools, transformed neighborhoods into districts of mini-hotels, and contributed to a citywide housing shortage. City officials had signed a VCA with Airbnb in 2015 but grew unhappy when they recognized the lack of transparency around host contact information and addresses, which hindered their ability to audit. Therefore, towards the end of 2018, the San Diego City Council passed an ordinance that banned short-term rental of homes that aren't the owner's primary residence and *required* platforms to collect taxes on behalf of their hosts, effectively overriding their VCA.

Airbnb responded swiftly through a citywide referendum and donated $1.1 million to a California political action committee, "Committee to Expand the Middle Class, supported by Airbnb, Inc." which helped Airbnb hire signature gatherers to circulate petitions opposing San Diego's ordinance. To strengthen their case for the citywide referendum, Airbnb also formed a coalition with other short-term rental providers such as HomeAway and Stand for Jobs who shared a common interest. Within a month after the new rule was approved, the coalition of Airbnb and other short-term rental providers delivered more than 62,000 signatures to rescind the ordinance. This was a big win for Airbnb and its coalition as they managed to deliver nearly twice the number of signatures needed to force a citywide vote.

JERSEY CITY – Referendum Failure

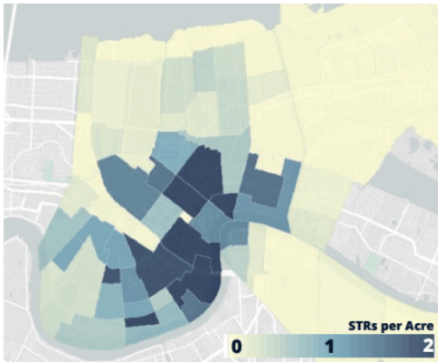
Things weren't as bright and sunny in Jersey City for Airbnb. In the run-up to their planned IPO, Airbnb faced a major defeat in Jersey City when the residents voted overwhelmingly in favor of stricter regulations on short-term rentals. Jersey City's residents' primary concerns were that a) many of the listings were run by large-scale investors who were pushing often-unruly tourists into residential areas and b) Airbnb's presence increased housing costs and accelerated gentrification. This time Airbnb spent about four times what they did in San Diego, devoting $4.2 million to fend off the new rules after they managed to collect enough signatures to trigger the referendum. Airbnb outspent its opponents (the hotel industry and influential hotel workers' union) by hiring political consultants and pollsters and investing heavily in mailers and TV spots, hoping these moves would lead to a good outcome. However, even though they spent less, Airbnb's opponents managed to obtain 70% of the vote in favor of stricter regulations on short-term rentals.

The new policy only allows homeowners to rent out portions of their homes as long as they are present during the guest's stay. In addition, the law prohibits renters from listing their apartments on a short-term basis most of the year if they don't live on-site, hugely impacting large-scale Airbnb operators who had converted hundreds of condos and townhouses into makeshift hotels, and at the same time residents who were making extra cash from renting a second home through Airbnb.

AIRBNB IN NEW ORLEANS - OUR CASE STUDY

The narrative for New Orleans over the years leading up to the proposal of stricter short-term rental (STR) regulations is an interesting case study. Expanding from the initial situation of a welcoming city with widespread rental units and options, STRs were prevalent and widely proliferated by many managers, owners capitalizing on services and tourists coming in through Airbnb.

Eventually, the commercialization of growing number of rental units began to feel like a burden for New Orleans residents; they felt the rise in STRs drove up prices of long-term rental units, with more than 61% of renters paying almost 30% of their income against the rent & maintenance of these units. This maps to a standard of being 'rent-burdened' and goes against the blue-sky scenario of Airbnb enabling users and owners to utilize rental opportunities and supplement their income.



Neighborhood	# of STRs (Non-Hotel)	Share of STRs (Non-Hotel)
Central Business District	891	14%
Central City	427	7%
Seventh Ward	435	7%
Treme-Lafitte	361	6%
Mid-City	351	6%
Marigny	322	5%
Lower Garden District	264	4%
Bywater	214	3%

These top eight neighborhoods represent over 50% of STRs in the city.

In August 2019, the New Orleans City Council approved major restrictions effectively banning these units in the Garden District and most from the French Quarter, with exceptions of a few streets, and mandated that owners must live on the property in order to rent it out (and must be present while the renter is there for the majority of the year). The regulatory environment was viewed as hostile by large-scale rental property owners like Airbnb Stay-Alfred, Hosteeva, and Expedia (parent group of Vrbo & HomeAway), but it was welcomed by residents and advocacy groups, who felt squeezed by these firms and noted that a handful of property owners and managers controlled nearly half of the city's short-term rental licenses.

The compliance norms set up by the City Council and Mayor's Office stipulated terms for temporary, accessory, and commercial licenses, as well as conditions for unregistered/illegal listings from Airbnb, HomeAway, Vrbo, etc. This was formulated after studying the strict regulatory environment in San Francisco, which is a quite a hostile market for hometown company Airbnb. A surge in applications was observed for licensing, and the planning commission also cited addendum for limiting the units and capacity of licensing, which we elucidate in the problem statement and expand with the 4I's framework.

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4I's Framework

Restructuring the details and license guidelines, we can note that this framework can help evaluate and formulate a strategy after identifying each aspect.

We evaluate with a goal of repealing the 2019 regulation and devise a strategy building from the events and listings from 2017, to tackle the prohibitions and guard-rails proposed and thereby formulate our BM strategy to repeal this regulation.

Issue

The main issue here is the 2019 regulation banning STRs of whole houses and rentals in the French Quarter and Garden District (and the changes and limitations which will be set in place upon approval) to enable the compliance of owners of STR units.

Approach taken here is to reduce the impact of, and ideally repeal, the terms cited in this legislation, with the objective to effectively dampen the effects of enforcing such rules and mitigate the damage of penalties on platforms and large-scale rental unit providers. This will enable key players like Airbnb to survive and adapt.

Institution

The target institution is the City Council and office of the Mayor, which set and draft the legislation with the terms for regulating and enforcing across various regions of the city. In order to resolve the issue or at least make it less harmful to their business, Airbnb needs to have a united front and discussion with the panel here and cite the changes to be accommodated in order to ensure compliance and a conducive environment, with transparency and disclosure of listing details from the platforms.

Apart from the council, the Department of Safety and Permits can be another body to appeal and negotiate the terms and perhaps enable softer compliance and penalties to current listings that need to comply or be optimized to meet the requirements. This can also map to the strategy or a key factor with the enforcing officers who handle the fines.

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Interests

While separating the interests, we can split them across groups that support and do not support the repeal, and accordingly form a coalition or rally support for a team to push for change.

<u>FOR REPEALMENT (INTERESTS ALIGNED WITH AIRBNB)</u>
Airbnb and comparable firms
Investors (real estate / Airbnb)
NOLA business owners (who stand to make more money with more tourists)

<u>AGAINST</u>
Renters
Low-income residents
Hotels
Homeowners

Information

Airbnb hosts can list entire homes/apartments, private or shared rooms. While it maps to type, availability, and activity in general, the review and details of the listing and occupancy from Airbnb serves as key information. This can help segregate towards features that can mimic a hotel, the legality of the unit or housing unit, and disruption/compliance to the guidelines as well.

The council also issued a brochure (*see below*) with guidelines illustrating the aspects and penalties termed with complying and license costs for each unit type. With the affordability of housing for citizens being a hot topic issue, driving up market prices will augment the support for stricter regulations and hence needs to be addressed in the methods to repealing.

Accessory Short Term Rentals

Who can be licensed?
Only owner occupants who will occupy the dwelling and be present during any Short Term Rental during bookings. Owners must have a valid Homestead Exemption in their name on the property. Renters cannot obtain this type of license.

What can be rented out?
Half of a double or spare bedrooms in a dwelling.

How many bedrooms can be rented/guests can stay?
Up to three (3) bedrooms, and occupancy is limited to six (6) guests. (There must be at least one bedroom in the dwelling for the owner-occupant.)

What is the duration of this license?
One (1) year from issuance. However, no single booking may exceed thirty (30) days.

Where can this be licensed?
Accessory Short Term Rentals are allowed anywhere in New Orleans except for the French Quarter.

Can I post signs?
No signs are allowed for an Accessory Short Term Rental.

How much does the license cost?
$200.00/yr

Penalties

Per Section 26-618 of the City Code, penalties for failure to obtain a license or violation of Short Term Rental standards can include:

- revocation of the Short Term Rental license,
- daily fines for every day a violation continues,
- liens against the property, and
- disconnection of electrical service to the subject property.

Temporary Short Term Rentals

Who can be licensed?
The owner or a long term renter/lessee regardless of whether or not they will remain onsite during the booking period. Temporary Short Term Rentals must have an in-town property manager available at all times. *Property owner signature additionally required for long term renter/lessee applicants.*

What can be rented out?
An entire dwelling unit may be rented out. This can be an entire single family home, one side of a double, an apartment, or condominium.

How many bedrooms can be rented/guests can stay?
Up to (5) bedrooms may be rented to guests. Occupancy is limited to two (2) guests per bedroom or a total of ten (10) guests, whichever is less.

What is the duration of this license?
Temporary Short Term Rental licenses allow a maximum of 90-rental nights per license year. Temporary Short Term Rental licenses may be issued for separate periods or for a continuous 90-day duration. If an applicant chooses to seek permits for separate periods, a new license application must be filed and approved.

Where can this be licensed?
Temporary Short Term Rentals are allowed anywhere in New Orleans except for the French Quarter.

Can I post signs?
No signs are allowed for a Temporary Short Term Rental.

How much does the license cost?

- With Homestead Exemption: $50.00 per application period.
- Without Homestead Exemption: $150.00 per application period.

Commercial Short Term Rentals

Who can be licensed?
Property owners or operators in a non-residential zoning districts. Refer to the table on Where Short Term Rentals are Allowed

What can be rented out?
A part of a dwelling or an entire dwelling, occupancy is limited to five (5) bedrooms and ten (10) guests.

How many bedrooms can be rented/guests can stay?
Up to (5) bedrooms may be rented to guests and occupancy is limited to ten (10) guests.

What is the duration of this license?
One (1) year from issuance. However, no single booking may exceed thirty (30) days.

Where can this be licensed?
Must be in a non-residential zoning district. Refer to the table on Where Short Term Rentals are Allowed. Commercial Short Term Rentals are allowed in the VCE portion of the French Quarter.

Can I post signs?
No signs are allowed for a Commercial Short Term Rental.

How much does the license cost?
$500.00/yr

Bed and Breakfasts are licensed differently than Short Term Rentals. They are required to obtain a year-round occupational license issued by the Bureau of Revenue. They operate very similarly to Accessory Short Term Rentals, but may offer more bedrooms for rent.

There are two types of Bed and Breakfasts:

- Accessory - An owner-occupied building which provides no more than four (4) guest rooms.
- Principal - An owner- or operator-occupied residential structure that provides no more than nine (9) guest rooms

Real estate investment, vacation homes and other sources of tourist revenue can all factor in for the purpose of renting short-term with highly accessible platforms over the luxurious and expensive hotel rooms.

OUR PROPOSED STRATEGY FOR AIRBNB

When deciding how best to influence the elected officials with the power to overturn the current restrictive regulation (New Orleans), it's best to think about how to form a strong coalition for Airbnb using the coalition dashboard framework. The first thing we need to consider is who are the winners and losers after the regulation is implemented (a table summary is provided below).

It seems that on the winning side, New Orleans hotels have the highest gain, as less accommodation supply for tourists provides them with less competition and the ability to charge higher prices. New Orleans renters are also happy because fewer apartments used for Airbnb means a larger supply of long-term rental apartments, and thus lower property values and rental prices. New Orleans homeowners might lose slightly due to falling property prices but mostly win because of the unpleasant experience often accompanied by Airbnb taking over a building, usually reducing the level of maintenance and escalating noise nuisance. Finally, low-income New Orleans residents are winners as reduced property prices in the city will make it more affordable for them to purchase or rent houses.

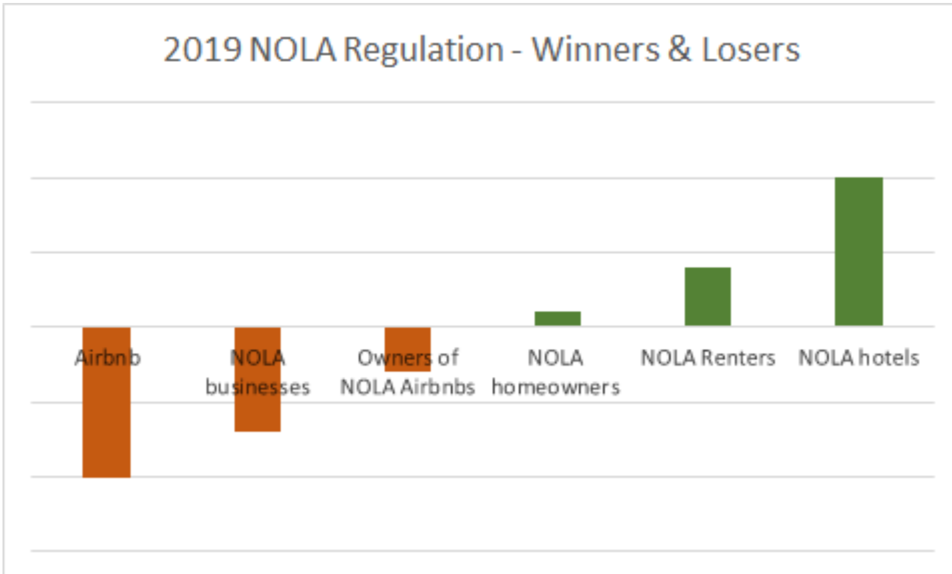
On the losing side, apart from Airbnb, the obvious losers are also investors who bought and operated Airbnbs in New Orleans, whose property value has now decreased as it can no longer be leased short term. Another losing group is the owners (and to a degree - employees) of New Orleans businesses such as restaurants, bars, clubs, etc., whose income relies heavily on the number of tourists that visit the city, a number which would probably decrease following the regulation's cap of available accommodations in the city.

It could also be argued that due to the reduction in tourist revenue, every New Orleans resident is "losing", as the city will have the income to spend per resident. According to the city's chamber of commerce, in the first five years following the introduction of Airbnb's to New Orleans in 2010, visitation spending in the city grew by a whopping 33% to over $7B. By 2019, the number of visitors to the city since the introduction of Airbnb doubled, and visitor spending in 2019 has surpassed $10B. However, despite this obvious overall positive financial implication of Airbnb's presence in the city, this is clearly a very low per capita loss, that would be overridden by whether the resident is a homeowner, renter, or Airbnb operator.

2019 Airbnb NOLA Regulation - Winners and Losers

Winners	Losers
NOLA renters NOLA low income residents NOLA hotels NOLA homeowners	Airbnb Owners of Airbnb in NOLA NOLA businesses

In terms of <u>motivation</u> then, hotels and tourist-dependent businesses seem to be the most motivated parties on either side, as the decision will greatly impact their long-term main source of income. Airbnb owners/operators might take a slight loss but can relatively easily rent long term or exit the investment and operate an Airbnb elsewhere. See the chart below illustrating the amount of loss/gain for each relevant party.



In terms of influence, business owners also seem like good coalition partners, as they are usually local residents with voting power, possess fairly large resources, are well organized in trade associations, exert informal influence in their communities, and are attractive in terms of media coverage as the institutions that create the famous party spirit of New Orleans. In comparison, Airbnb owners might be investors who do not reside in the city (or even the US) and lack the power to unite and pool resources.

In terms of coordination, the interests of Airbnb and local business owners align perfectly and can be coordinated via a single parent organization (board of trade, chamber of commerce, etc.), demanding a simple single ask - a severe ban or cap on Airbnb will prevent the city, its businesses, and indirectly - all of its residents, from exploiting their no. 1 source of revenue: the tourism industry. The stats speak for themselves and are easy to comprehend: In 2018 New Orleans had over 18 Million tourists. Even if they were evenly dispersed throughout the year (which they obviously are not, as tourism is seasonal with peak revenue coming at certain times), New Orleans would need 50,000 accommodations per day to house them. However, at the time only ~40,000 hotel rooms existed in New Orleans. In other words, it was only thanks to the existence of Airbnb that tourism was able to reach such magnitude. With Airbnb banned, hotels could drastically increase prices, reducing the number of total tourists, and the amount of dollars tourists spend for non-accommodation expenses. Therefore, Airbnb's coalition can present the New Orleans hotel industry as a narrow interest group that seeks to profit on the backs of all New Orleans residents.

Beyond Market Strategy - We believe that Airbnb should not go the route of its failed referendum strategy. Given the risk of this strategy, as evident by the disastrous results in Jersey City described above, we chose not to try and implement it in New Orleans. We believe that this strategy will not only waste millions of dollars to implement, but it would also end up failing. Those who are motivated to ban Airbnb, including local homeowners, renters, and low-income individuals, possess strength in numbers that can help win in the polls. In contrast, those who are motivated to repeal the ban, such as Airbnb itself, Airbnb apartment investors, and local business owners, might not even be local residents allowed to vote, and even if they are, do not possess large numbers. Instead, they have the ability to pool their large amount of resources to influence the city council (an ability which supporters of the ban lack). Therefore instead, instigate a dialogue with the city council through an extensive and lobbying campaign carried out together with the New Orleans Chamber of Commerce, in which the coalition would willingly listen to the council's concerns and offer certain concessions that would emphasize it shares the council's goal of benefiting the city of New Orleans

Through our collaboration with the chamber of commerce, local businesses can help spread the word to the community by organizing events and benefits, and simultaneously create a powerful and well-funded lobbying effort with the city council. They could even attract media attention by shutting their businesses down for a day of protest, to demonstrate how the city's unique atmosphere will disappear if lodging becomes too expensive for visitors. While hotels can also be a part of the Chamber of Commerce and therefore try to prevent this collaboration, we are assuming that national and international chains (which dominate the hotel industry) will have a less influential position than New Orleans based businesses, and thus will not succeed in hindering this effort, while local New Orleans "unique" hotels will have sufficient resources to prevent it.

While New Orleans hotels should not be engaged in dialogue with in any way, but rather "out lobbied" and portrayed as the greedy opportunists that fooled the city to adopt a faulty regulation, other current winners (and former losers, when Airbnb was not regulated), while not completely sharing Airbnb's interests and not part of its core coalition, should be appeased and approached with a productive dialogue. This could be done by the following tactics:

Regarding renters and homeowners, Airbnb needs to convey their commitment to maintain both the high quality of residential living in the buildings in which it operates, as well as the overall residential character of buildings and neighborhoods, preventing a situation where clusters of tourist-only apartments appear. Therefore, Airbnb's carrot to renters and homeowners could be collaborating with the city council to ensure only 30% of each residential building or neighborhood could be used as Airbnbs. Utilizing the current registration system (which only about half of current Airbnb are part of), Airbnb could share information of un-registered listings and shut them down, allowing only current registered listing and a limited additional number of Airbnb's to operate according to the proposed moderate cap, which would of course be better than the current outright ban in the French Quarter and Garden City, and severe restrictions elsewhere. They could also begin a program where a building with more than a certain percent of apartments are used as Airbnb, the company will fund maintenance services and physical improvements to the structure, or the equivalent service for a neighborhood community.

Regarding low income individuals, Airbnb should collaborate with the city council and affordable housing non-profits such as the Jane Place Neighborhood Sustainability Initiative (JPNSI). Since 2017, the city began collecting a $1-per-night fee from Airbnb to put into a fund for developing affordable housing. However, in the first nine months, the fund accrued just $230,000 from Airbnb—enough money to create only one unit of affordable housing. Such programs should be expanded by either increasing the per night fee on Airbnb listings, and building trust between communities and Airbnb (and Airbnb non-resident owners) by investing directly in efforts to improve infrastructure and maintenance of such neighborhoods, which will benefit both parties.

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