

## Miami as Major Airbnb Market Raises Questions

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April 6, 2016



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Guests hoping to stay at a condo during the Miami Open tennis tournament found themselves stuck in a lobby with no access to the unit they rented on Airbnb, the online home-sharing service.

The family was denied keys to the property by the condominium's management company.

Attorney Donna DiMaggio Berger received a call from her client, the Miami-area association at the condo, asking if the family had the right to stay overnight in an illegally rented unit.

Because the condo association's bylaws had provisions against short-term rentals, a common restriction placed on many residential properties in South Florida, the answer was "no."

"They felt bad for the people," said Berger, a shareholder with Becker & Poliakoff. "They were the innocent victims. They saw the units advertised and assumed it was a legitimate transaction."

Miami-Dade County's sunny beaches and high-rise condos make it a top destination for home-sharing networks like Airbnb and its users. The influx of visitors opting for alternatives to Miami's pricey hotel rooms, like the family visiting for the Miami Open, is pushing demand for short-term rental options.

An estimated \$2.4 billion was spent on lodging via Airbnb during the year ended in September 2015, commercial real estate firm CBRE Inc. reported. More than 55 percent was captured by five U.S. cities: New York, Los Angeles, San Francisco, Miami and Boston.

The rise of a sharing economy is creating a rift between condo owners looking to make extra cash and association boards whose members don't want to share an elevator with strangers.

"I call it the 'Uber-ization' of property," Berger said, alluding to the ride-sharing service. The Fort Lauderdale attorney has dealt with a handful of situations where associations have reminded residents that listing a unit on websites like Airbnb is prohibited. Some associations with bylaws written before such services existed are now looking to amend those documents to restrict short-term leases.

"It has become a problem in a lot of condos," said Roberto Blanch, a Miami attorney with Siegfried, Rivera, Hyman, Lerner, De La Torre, Mars & Sobel.

Associations at Mint and Ivy, two high-rise towers in downtown Miami's Riverfront complex on the Miami River, are cracking down by restricting elevator and garage access to residents with a specific key fob or vehicle barcode, said Ari Tenzer, founder of the Tenzer law firm. Tenzer, who sits on his condo association board, said property managers are logging onto the Airbnb site themselves to catch violators.

Suspected violators receive written notice as a warning. They could also be called before a grievance committee.

"If push comes to shove, you take legal action," Tenzer said, although litigation has not yet been needed.

## **Residents vs. Investors**

Researchers at Pennsylvania State University took a closer look at Airbnb hosts who are actively listing units for rent. The university found two categories generated a big chunk of Airbnb revenue from September 2014 to September 2015: Multiple-unit operators who listed two or more units for rent and full-time operators who rented at least one unit 360 days a year.

The number of individuals using Airbnb as an "unregulated, full-time business" is growing, the study stated. New York and Miami held the largest number of full-time operators of all East Coast markets: They made up 7.3 percent of all Airbnb hosts in Miami and accounted for 61 percent of the market's revenue.

Airbnb and similar home-sharing services have become viable options for owners looking to turn their second homes into income-producing assets, especially during leasing gaps.

It becomes a "battle between the people who are homestead residents and live in these units, who sometimes may be the minority ... versus the majority of people who are just investors and want to rent out those units," said Jason Kellogg, a partner with Levine Kellogg Lehman Schneider & Grossman. "It could set up for some pretty interesting fights between people within the same building."

New condominium developers will probably keep their documents free of language that would limit rentals, the Miami attorney said. Prohibiting short-term rentals can restrict the buyer pool.

Other players keeping a watchful eye on Airbnb's evolution are county governments and the hotel industry. The latter has begun to see its long-stellar occupancy rates soften.

Natalie Castillo, a Miami-based senior associate with CBRE Hotels, said any decline in demand is due to the strong dollar's effect on international travel. The rise of home-sharing services isn't "anything that is a concern at the moment," she said.

Tenzer, whose practice includes the hospitality sector, said short-term rentals won't run the hotel industry out of business overnight, but Airbnb and its counterparts warrant discussion.

Miami-Dade County Commissioner Juan Zapata released a memorandum April 1 calling for an agreement that would enable the county to collect the tourist development and convention development taxes, better known as bed taxes, from home-sharing networks.

"So far, they've had a free ride," Tenzer said.

The services "cannot continue to go unnoticed and unregulated," Zapata said in a statement. The commissioner told the Daily Business Review that similar tax agreements have been reached with the service in other major markets.

"Airbnb generated a lot of money in Miami," Zapata said. "We need to be collecting this money. These are dollars that we need."