Arizona’s Short-term Rental Law

A Lesson in Unintended Negative Consequences

By State Representative John Kavanagh
In the beginning there was no zoning and municipalities were without form. And the people then said, “Let there be zoning and it was good.”

But in 2016, the Arizona legislature enamored by the dual forces of the digital revolution and deregulation, exempted homeowners who wanted to rent out all or part of their homes for short-term rentals from local zoning laws and other regulations.

And then it was not so good.
The 2016 Bill

The 2016 short-term rental bill pre-empted local control, including residential zoning laws that generally prohibited short-term rentals as a business use in a residential area.

9-500.39. Limits on regulation of vacation rentals and short-term rentals; state preemption; definitions

A. A city or town may not prohibit vacation rentals or short-term rentals.

It also greatly limited most local restrictions on usage, including local room occupancy limits, which opened the rental homes up for over-occupancy, party house and event-venue abuses.
That phrase expanded the definition beyond the individually-owned home and opened it up to company ownership.

In addition, the definition went beyond single family homes and allowed four-unit buildings to become mini-hotels.
The 2016 bill passed overwhelmingly in both the state senate and the house and was enthusiastically signed into law by the governor. In fact, I was the sole lone NO vote in the senate. Note my “Red Badge of Courage.”
Was The Legislature Deceived? Did We Buy Snake Oil?
Myth #1

“This will allow empty nesters with an extra bedroom to earn a little extra cash renting a room to an exchange student from Sweden.”
Reality #1
Well, at least they got the student part right.
Myth #2

“The homeowners will be present in most cases to police the lodgers renting the room.”
Reality #2

Whole house rentals with absent owners are the norm. Few renters rent single rooms and few owners want to have strangers in their homes while they are living there. Parties often turn into the backyards and go on long into the night.
Myth #3

“People would not rent their homes for large events, such as weddings, graduations, etc. These rentals were only for lodging.”
Reality #3

Some homes became exclusive event venues with busloads of people arriving for weddings, graduation parties and other large events
Myth #4

“Local police and code enforcers will effectively enforce the nuisance laws and code violations.”
Reality #4

Local code enforcers generally only work weekdays and most nuisance violations occur at night or on weekends and the police are reluctant to enforce nuisance laws. In addition, it is difficult to legally serve the owner of the property or cite him or her for nuisances.
And then came another unintended consequence

The short-term rentals are so profitable in high-demand tourist areas that they began displacing rentals for residents. In Sedona, 20% of the rentals in the city proper are now short-term rentals creating a housing crisis for local workers.
One condominium complex near downtown Scottsdale that was almost exclusively occupied by retired seniors, now has about half the units operating as short-term rentals. Young partying vacationers have taken over public areas and make a lot of noise, even late into the night. The character of the complex and lifestyles of the retirees have been irreparably harmed.
And yet still another unintended consequence

The inability to enforce occupancy standards, sometimes resulted in gross over-occupancy and the clogging of neighborhood sewer lines.
And let’s not forget the litter, noise and parking problems.
After three years of worsening problems, I introduced legislation to help resolve some of them. But based upon the popularity of the original bill, I knew that reforms had to be incremental, limited in scope and surgically targeted at specific problems.

In addition, stakeholders had to be included in the process, especially proponents of short-term rentals. Concepts had to be floated first and scaled back, as needed.

Overreach was the enemy that kills many bills.
I Collaborated With

The Arizona League of Cities and Towns, the organization that represents and advocates for Arizona’s municipalities

My wife, Linda Kavanagh, who was then mayor of our hometown, Fountain Hills, Arizona and was dealing with some egregious cases.

Legislative staff

Numerous stakeholders from both the short-term rental industry and aggrieved homeowners.
#1 Make prevention and enforcement easier by better identification and communication with owners or their representatives.

#2 Create a deterrent fine structure that would result in license revocation, whenever three violations with conviction had occurred within the previous twelve months.

#3 Ban commercial ownership and limit personal ownership to one’s primary and secondary residences to control the proliferation of units and provide a more level playing field for regular hotels.

#4 Ban event venues completely.
Goal #1 Make prevention and enforcement easier by better identification of and communication with owners or their representatives. This goal was met.

The new law

1. Allows municipalities and counties to require the owner of a vacation or short-term rental to provide the municipality or county with contact information for the owner or owner’s designee who is responsible for responding to complaints in a timely manner in person, over the phone or by email at any time of the day before offering for rent the vacation or short-term rental. (Sec. 1, 2)

5. Stipulates that the municipality or county must make a reasonable attempt to notify the owner or the owner’s designee of the issuance of a citation for a violation of the municipality or county’s laws, regulations or ordinances or a state law within seven business days after the citation is issued if the owner of the vacation or short-term rental has provided contact information to the municipality or county. (Sec. 1, 2)
Goal #2 Create a deterrent fine structure that would result in license revocation, whenever three violations with convictions had occurred within the previous twelve months. **This goal was partially met.**

Instead of revocation after three convictions within twelve months, we created escalating fines without revocation:

- First violation  $500
- Second violation $1,000
- Third and Subsequent violations $1,500 or 50% of the gross monthly revenues, whichever is greater.

If the local fine is less, the difference is forwarded to the state general fund.
Goal #3 Ban commercial ownership altogether and limit personal ownership to one’s primary and secondary residences. This goal was abandoned.

After meeting with commercial companies, it became apparent that they tended to be highly responsible players who often rented to corporate clients, installed Wi-Fi trackers to prevent over-occupancy and installed decibel meters to monitor noise. They also hired persons to monitor the devices and call or respond to poorly behaving lodgers. Finally, the “brick and mortar” hotels showed little interest in the bill.
Goal #4  Ban event venues. **This goal was met.**

The new law:

7. Specifies that a vacation or short-term rental may not be used for a special event that would otherwise require a permit or license pursuant to a municipal or county ordinance or a state law or rule. (Sec. 1, 2)
Homeowner Protections

1. Declares that for the purpose of calculating fines, multiple verified violations at the same incident will count as one.

2. Requires the municipality to notify the homeowner of all violations cited on the property.

3. Allows the judge on a first violation against the homeowner for violations on the property to waive the fine, if the homeowner can demonstrate a “good faith” effort to control lodgers.
1. Prohibits online lodging platforms from listing properties that do not have a sales tax license and requires the license number to be posted on the online ad.

2. Authorizes local and county tax officials to access state Department of Revenue tax information to aid in law enforcement.
Most short-term rentals are not problematic but some are really bad actors.

Each jurisdiction needs to decide where to strike the balance between a property owner’s right to fair use of his or her property and the rights of surrounding property owners to set and maintain community standards.

The effects of short-term rentals on existing “brick and mortar” hotels and on local housing availability and affordability also need to be considered but not in isolation but as part of other relevant factors, such as limits on apartment buildings and other affordable housing factors.
Is this the end of the short-term rental monster?