



Home Based Businesses & Short-Term Rentals

GAZA 2020 Winter Conference

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PROMOTING EXCELLENCE IN GOVERNMENT

AGENDA

- Who's this speaker we're stuck with?
- Managing Home Based Businesses (HBBs)
- Managing Short-Term Rentals (STRs)
- Q & A
- Escape to Freedom!



INTRODUCTION

About the GMRC

- One of 12 Georgia's regional governmental agencies
- Serves 13 Counties and 38 municipalities
- Created in 1962
- Focus on community and economic development
- Council consists of local elected officials and State appointments

www.gmrc.ga.gov



INTRODUCTION

"We will never bring disgrace to this city, by any act of dishonesty or cowardice, nor ever desert our comrades; we will fight for the ideals and sacred things of the city, both alone and with many; we will revere and obey the city laws, and do our best to incite a like respect and reverence to others; we will strive unceasingly to quicken the public's sense of civic duty; **that thus in all these ways, we may transmit this city, greater, better, and more beautiful that it was transmitted to us.**"

The Athenian Pledge



CAVEAT*

Defer to your local attorney!



HOME BASED BUSINESS (HBBs)

IRS criteria: "...use part of your home as..."

- Exclusively & regularly as principal place of business
- Where you deal with patients, clients, or customers
- A regular base for storage of inventory or products
- For rental use
- As a daycare facility



HOME BASED BUSINESS (HBBs)

Different things to different people



HOME BASED BUSINESS (HBBs)

Need to distinguishing between use as primary location for business vs. a temporary location for doing work.

- Frequency
- Duration
- Ancillary activity
- Promotional listing/ Business address



HOME BASED BUSINESS (HBBs)

Nature of HBBs has changed over generations
Small businesses (<20 people) account for ~ 1/2 of US employment but ~ 88% of registered companies.

US Bureau of the Census, 2014

- Increase in consultancies since 70's
- Advent of telecommuting
- Internet/ Information technology boom

Do most anything from anywhere!

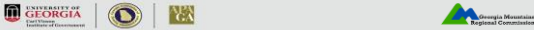


HOME BASED BUSINESS (HBBs)

Reasons for working at home

- Convenience
- Cost savings
- Quality of life
- Avoid commuting
- Family obligations
- Lack of options
- 2nd income
- Disability

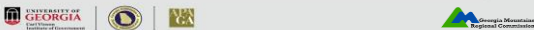
Practice expected to increase in future



HOME BASED BUSINESS (HBBs)

So why regulate?

- Maintain compatibility for residential areas
- Ensure commercial practices are lawful
- Ensure businesses are legally "equal"



HOME BASED BUSINESS (HBBs)

Maintaining residential compatibility

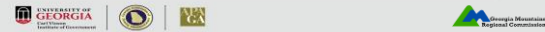
- Intent is to "mask" commercial uses/ minimize operation as a commercial presence
- Ensure property is compliant with residential codes



HOME BASED BUSINESS (HBBs)

Ensure practices are lawful

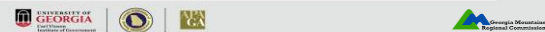
- Business must be compliant with any permits, rules, and laws related to their industry
- Registration of business ensures emergency responders and general public are aware of activities



HOME BASED BUSINESS (HBBs)

Ensure businesses are legally "equal"

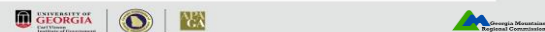
- Business must not circumvent legal obligations via use of residential zoning



HOME BASED BUSINESS (HBBs)

Regulation of HBBs

- Signage/ Promotion
- Parking/ Traffic
- Nuisances
- Permits
- Prohibition of sales
- Customers and clients
(Time, volume...)
- Restrictions on employees
- Limit exterior modifications
- Mechanical equipment
- Storage/ Use of materials
- Permitted/ Prohibited occupations



HOME BASED BUSINESS (HBBs)

Regulation of HBBs – Tips and Best Practices

- Best to have variances for differing zoning districts
(ie: Rural vs urban conditions)
- Focus on business registration (*Increased awareness*)
- Link permits/licenses to awareness of codes
- Have stand-alone material (from codes) for HBBs available for sharing
- Track code violations tied to HBB operations



HOME BASED BUSINESS (HBBs)

Regulation of HBBs – Tips and Best Practices

- Speak with Chamber and SBA to learn about issues
- Support for HBBs via promotion of resources, locations for off-site meeting sites, and more
- Remind applicants of HOA restrictions



SHORT-TERM RENTALS (STRs)



SHORT-TERM RENTALS (STRs)

Agenda

- STRs 101
- Issues and Notes
- Vision vs Reality
- Why Regulate



SHORT-TERM RENTALS (STRs)

STRs 101 – Preamble

- The nature of unintended consequences
- Presumption of well meaning... from both the private citizen AND the government



SHORT-TERM RENTALS (STRs)

STRs 101

- By-Owner Short-Term Rentals (STRs) generally refers to the growing trend of private residential properties made available for commercial rental use.
- Traditionally this activity was limited due to minimal access between prospective renters and interested owners.



SHORT-TERM RENTALS (STRs)

Origins lie in event rentals and time shares.



SHORT-TERM RENTALS (STRs)

Only principal Federal law regarding short-term rentals is IRS Topic 415 - Renting Residential and Vacation Property:

"You're considered to use a dwelling unit as a residence if you use it for personal purposes during the tax year for more than the greater of:

- 14 days, or
- 10% of the total days you rent it... "



SHORT-TERM RENTALS (STRs)

STRs 101

- Internet and search-engine technology enabled market for matching renters and owners, fostering increase in both numbers of properties and renters.

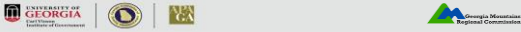


- Now anyone can rent from anywhere and reach a prospective customer!



Company	Rental Type	Fees Involved	Hosted?
VRBO	All Types	- \$349/property listing/yr - Free to list option, 10% commission when booked	
FlipKey	All Types	Free to list, equally distributed to 12 other sites, pay 3% when booked	No
HomeAway	All Types	- \$349/property listing/yr - Free to list option, 10% commission when booked	No
HomeStay	Homes/Rooms	Free to list/booking fee paid by renter	Yes
Booking.com	Hotels/Apartments		
OneFineStay	High-End Rentals Private Homes/Villas		No

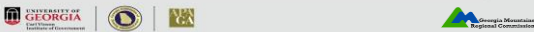
Estimated 12-15,000 STR properties within Georgia



SHORT-TERM RENTALS (STRs)

STRs 101

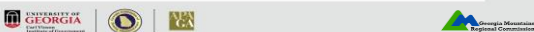
- “Anyone can rent from anywhere” concept presents a set of challenges for local regulation and community development:
- Land use mgmt. policies are predicated on knowing when and where certain activities occur. (Control nuisance activities, manage impacts on resources, minimize conflicts, etc.)
- Business certification is done to ensure welfare of the practice and equitable application of related laws and taxes.



SHORT-TERM RENTALS (STRs)

Communities are now playing catch up in adapting their policies and ordinances

- Issue deals with multiple aspects of legislation that are legally gray and/or in flux
- There has yet to be a “silver bullet”
- All parties respect private property rights – At issue is the potential for conflict among individuals



SHORT-TERM RENTALS (STRs)

2015 – Georgia House Study Committee on STR Providers

- “However, homeowners who frequently utilize their primary or secondary residence as a reliable source of income, is (sic) in essence utilizing that property as a business asset.”
- Committee made 7 recommendations that suggested STRs be regulated locally and be governed (ie: taxed and certified) more like a conventional lodging operation.



SHORT-TERM RENTALS (STRs)

State Taxation

Ga. Code Ann. §§ 48-8-2(31), -30(f)(1), -59

- A 4.0% sales tax is imposed on the sale or charges for any room, lodging, or accommodation in Georgia furnished to transients by “any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration.” It does not apply to accommodations supplied to any one person for a period of 90 continuous days or more.



SHORT-TERM RENTALS (STRs)

State Taxation

- “Any person (including owners of private residences, cabins, or cottages and rental agents who rent such accommodations to transients on behalf of the owners) who makes a sale or charges for any room, lodging, or accommodation is considered a retailer and dealer for purposes of administering the Georgia sales and use tax laws.” Ga. Dep’t Rev. Policy Bulletin SUT-2018-08 (Mar. 8, 2018).



SHORT-TERM RENTALS (STRs)

State Taxation

- A certificate of registration must be obtained from the Department of Revenue. Local sales and use taxes may also apply. See Ga. Dept. of Revenue Georgia Sales and Use Tax Rate Chart (rev: Sept. 18, 2018)
- Residential properties used as Short-Term Rentals are **NOT** subject to the \$5 State Hotel-Motel Fee that was passed in 2015.



SHORT-TERM RENTALS (STRs)

State Legislation - HB 523: Short Term Vacation Rental Regulation

Preemption would prohibit local governments from:

- Prohibiting rental transactions, imposing occupancy limits, restrict the use of, or regulate the duration or frequency of a rental of short-term rental property;
- Requiring the inspection, licensing, or registration of short-term rental property;
- Requiring the licensing or registration of owners or operators of short-term rental property;



SHORT-TERM RENTALS (STRs)

Use Conflicts - Rental versus Owner Occupied

- *"I don't know my neighbor"*
- Impact of rental use on property maintenance
- Bad actors as renters
- Debate over occupancy constraints
- *"There goes the neighborhood"*



SHORT-TERM RENTALS (STRs)

Use Conflicts - Rental versus Owner Occupied

"I don't know my neighbor"

- Smaller towns aspire for quiet predictability
- Preference for knowing neighbors, sense of community
- Fear of precedent/ the next guy
- Fear of criminal activity
- Is the landowner being mindful of the renters?
- Most HOA's prohibit rentals unless owner lives on site



SHORT-TERM RENTALS (STRs)

Use Conflicts - Rental versus Owner Occupied

Impact of rental use on property maintenance

- Does rental use mean increased traffic, parking?
- Are rental uses damaging the property?
- Will the owner invest at same level as a purely residential property?
- Will the owner invest in something out of scale/ inappropriate to increase rental value?



SHORT-TERM RENTALS (STRs)

Use Conflicts - Rental versus Owner Occupied

Bad actors as renters

- Frat parties/ Oversized events
- Traffic/ Noise/ Litter
- Criminals/ Sex Offenders

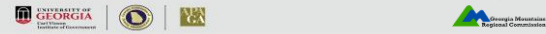


SHORT-TERM RENTALS (STRs)

Use Conflicts - Rental versus Owner Occupied

Debate over occupancy constraints

- Oversized events
- Parking
- Fire/Safety hazard

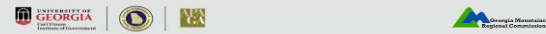


SHORT-TERM RENTALS (STRs)

Use Conflicts - Rental versus Owner Occupied

“There goes the neighborhood”

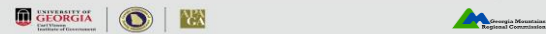
- What if block/neighborhood shifts to more rental?
- *“This isn’t why I bought my property!”*
- Possible fallout effect on property values and land use trends



SHORT-TERM RENTALS (STRs)

Business/Ownership Conflicts

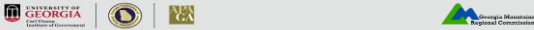
- Unregistered STRs unlikely to collect/pay taxes
- STRs vs Traditional Hotels/ Motels
- Unregistered STRs operating under different rules
- Unregistered STRs can violate insurance provisions
- Government communications
- Ability to reach owner over matters of code compliance or emergency response



SHORT-TERM RENTALS (STRs)

Issues and Trends Bottom Line

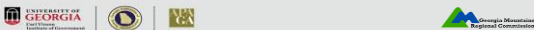
- There are ordinances and laws (local and State) designed specifically for managing lodges and related industries.
- There are ordinances and laws designed specifically for private residences.
- Those have different standards and expectations for the diverging uses.
- STRs typically operate more like the lodging industry



SHORT-TERM RENTALS (STRs)

Why Regulate

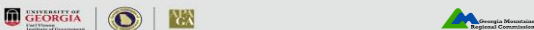
- Identify and manage where STR's operate
- Have STRs operate as businesses
- Ensure safe rental housing that follows code
- Have an identified responsible party available
- Ensure proper taxes and fees are collected
- Preserve the sense of place for locals and visitors



SHORT-TERM RENTALS (STRs)

Why Regulate – Ensure Safe Conditions

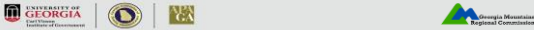
- Identify properties to ensure site safety and that the building does not have any conflicts in use, zoning violations, or violate fire, police, ems safety codes, nor conflict with occupancy guidelines.
- To identify an emergency contact (either owner or property management group) in the event of an emergency.



SHORT-TERM RENTALS (STRs)

Why Regulate - Recapture Lost Income/ Fair Playing Field

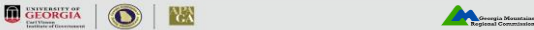
- Register/certify annually those properties which operate as Airbnb, STRO, VRBO, etc. to collect appropriate business/tax revenue.
- Ensure that properties have sufficient insurance coverage.



SHORT-TERM RENTALS (STRs)

Why Regulate - Protect Neighborhood Sense of Place

- Protect neighborhoods and neighbors (and notify them of existing and proposed STR's) who may not be aware that adjacent properties are operating as such.
- Ensure that they follow all applicable codes, ordinances, trash and parking requirements and if necessary, regulate how many can operate within so many feet of each other.



SHORT-TERM RENTALS (STRs)

Tips for Moving Forward

- Have a strong public engagement process ahead of adoption. Be sure to include all stakeholder groups
- Emphasis is mitigation to prevent influence of bad actors among owners and renters
- Emphasis also to ensure equity in managing traditional lodging forms vs STRs



SHORT-TERM RENTALS (STRs)

Tips for Moving Forward

- Develop local tracking system to log and monitor rental properties, with effort to track any related code violations and/or criminal incidents
- Promotion/ education of need to register as a business collect taxes is key. (Enables inspection and monitoring)
- Have some form of local registration needing proof of insurance, code compliance, and emergency contact info.



SHORT-TERM RENTALS (STRs)

Tips for Moving Forward

- Require owner/manager have response time for emergencies and violations. (1-2 hours)
- Require notification to adjoining properties if the use is not allowed by right.
- Property should be maintained in accordance with standards of applicable RESIDENTIAL scales and use policies.



SHORT-TERM RENTALS (STRs)

Tips for Moving Forward

- Establish restrictions regarding occupancy, parking, additions, etc., should be clearly delineated and match prevailing residential standards.
- Require use and activity policies be shared with renters that clearly prohibits violation of above standards, paid events, etc.
- Prohibit any on site signage of rental uses



Questions & Deflections

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