

Supplementary Report - Update on Short-term Rental Regulations

Date: February 1, 2021

To: City Council

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

This is a supplementary report for Item PH20.7 Update on Short-term Rental Regulations. This report responds to a directive from the Planning and Housing Committee to report to the February 2, 2021 meeting of City Council with an interim update on the implementation of short-term rental regulations, as well as to a directive from City Council on June 29, 2020 to provide a status update on short-term rental regulations and enforcement.

City Council adopted Zoning By-law amendments to permit and regulate short-term rentals in 2017, along with licensing and registration regulations. The Zoning By-law amendments were appealed to the Local Planning Appeal Tribunal (LPAT). While they were under appeal, the zoning and licensing by-laws were not in effect. The LPAT dismissed the appeals and upheld the City's zoning by-laws in November 2019, at which time the licensing by-laws came into force. Implementation began immediately but was later delayed as a result of the COVID-19 pandemic.

Throughout 2020, MLS worked to develop, launch and promote the registration portal for short-term rental operators, establish data-sharing agreements with short-term rental companies and bring them into compliance with the licensing by-law, and respond to resident complaints about short-term rental properties. Compliance and enforcement efforts related to the licensing and registration regime began on January 1, 2021. This report provides a snapshot of the first month of these efforts.

This report was written in consultation with City Planning, Revenue Services, Customer Experience Transformation and Innovation, Legal Services, Strategic Communications and the Housing Secretariat.

FINANCIAL IMPACT

There are no financial implications associated with this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

On January 19, 2021, the Planning and Housing Committee adopted Item PH20.7 Update on Short-term Rental Regulations. The Committee directed Municipal Licensing and Standards to report directly to City Council with an interim update on the implementation of short-term rental regulations.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH20.7>

On June 29, 2020, City Council adopted MM22.16 Moving Quicker to Maintain Rental Housing, requesting Municipal Licensing and Standards to report to the Planning and Housing Committee with a status update on the City's regulation of short-term rentals and enforcement.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.MM22.16>

On December 5, 2017, City Council adopted LS23.1 Licensing and Registration Regulations for Short-Term Rentals, which created a separate Toronto Municipal Code Chapter for short-term rentals and established the rules and regulations for short-term rental companies and operators.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.LS23.1>

COMMENTS

This report responds to a directive from the January 19, 2021 Planning and Housing Committee meeting to report to the February 2, 2021 meeting of City Council with an interim update on the implementation of short-term rental regulations, as well as a directive from City Council on June 29, 2020 to provide a status update on short-term rental regulations and enforcement.

Background

On December 7, 2017, and January 31, 2018, City Council approved the regulation of short-term rentals in Toronto, including amendments to the City's zoning by-law to permit short-term rentals as a use, a licensing and registration program, and the application of a Municipal Accommodation Tax (MAT) of 4 per cent.

Toronto Municipal Code Chapter 547, Licensing and Registration of Short-term Rentals sets out the requirements for both short-term rental operators and companies. Short-term rental operators must register with the City and pay a registration fee of \$50 per

year, and collect and remit the MAT on a quarterly basis (unless a short-term rental company does so on their behalf). Short-term rental companies must obtain a licence with a one-time licence application fee of \$5,000, as well as an ongoing fee of \$1.00 for every short-term rental night booked through the company.

Following Council's decision, the City's Zoning By-law amendments were appealed to the provincial Local Planning Appeal Tribunal (LPAT). The proposed regulations were not in effect while under appeal. On November 18, 2019, the LPAT upheld the City's zoning by-laws and dismissed the appeals. This decision enabled the zoning regulations for short-term regulations and Chapter 547 to come into effect, and Municipal Licensing and Standards (MLS) began the implementation of the licensing and registration regime.

Implementation Update

Digital Operator Registration

While the City's response to the COVID-19 pandemic delayed implementation by several months, the City was able to launch a digital registration service for short-term rental operators on September 10, 2020. Operators were advised to register online by December 31, 2020, as compliance and enforcement efforts would be phased in beginning January 1, 2021.

Digital registration allows residents to quickly and easily submit details related to their short-term rentals and make secure online payment of registration fees. The online registration process can be completed in 5 minutes from the comfort of resident's homes and is available 24 hours a day, 7 days a week. MLS worked closely with the City's Customer Experience Transformation and Innovation (CXi) team and Technology Services to develop a customer-focussed, end-to-end digital registration experience as part of the City's modernization efforts to make services easier and more accessible by co-designing with end users.

Part of the digital experience was to voluntarily capture operators' feedback from the registration process. Since launch, approximately one out of every two operators provide their feedback and this digital service has received positive feedback with 84% of operators satisfied with the digital registration experience. Almost half of the registered operators have completed the registration process through their mobile phones. The City has received positive feedback from registrants, including the following comments: "Very easy and well-made site for elderly"; "fast and convenient during the pandemic. I love your way. Great thanks"; and "Very simple and straightforward. Unexpectedly good for a government service. Thanks!"

During the registration process, operators are required to submit government-issued identification as evidence of their principal residence. Once registered, operators receive a unique registration number that must be included on all advertisements of the short-term rental property (e.g. online postings, including those facilitated by a short-term rental company), as well as any invoice, contract, receipt, or related documents.

As of January 24, 2021, the City had received 3,263 applications, and had approved 2,744. Many of the remaining applications are currently under review (see Table 1). This

information is also provided on the City of Toronto's Open Data portal, and is updated once daily.

Table 1: Short-term rental operator applications, by status.

Status	Total Applications
Approved	2,744
Cancelled	34
Denied	15
Revoked	9
Intend to Deny*	135
Under Review	326
Total	3,263

*Note that "Intend to Deny" means that an application has been reviewed and does not meet the registration requirements. The City issues an "Intend to Deny" letter, providing the applicant 10 days to provide information for the outstanding requirements prior to having the application denied.

Licensing of Companies

Staff have been working with short-term rental companies that operate in Toronto to inform them of the new regulations, bring them into compliance with the licensing regime, establish data-sharing agreements to facilitate the collection and sharing of information to inform the City's enforcement strategy, collect the \$1/night fee, and ensure operator compliance with the MAT.

As of January 2021, one short-term rental company has completed the licensing process, with another in the final stage. Airbnb became licensed on December 18, 2021, and Booking.com was still in the licensing process at the time of report writing. Some companies have chosen to terminate their short-term rental operations in Toronto and not obtain a licence, such as Expedia and TripAdvisor.

Municipal Accommodation Tax (MAT)

Effective January 1, 2021 the Municipal Accommodation Tax will need to be collected and remitted to the City on a quarterly basis. The due dates to file reporting and remittance requirements of the MAT are outlined in Table 2, below.

MLS, Revenue Services, Technology Services and CXi have been working towards developing an online reporting/remittance portal that will enable short-term rental operators to file their MAT reporting requirements electronically, in a secure and efficient manner. Revenue Services is also providing the opportunity for short-term rental companies to enter into a Voluntary Collection Agreement (VCA) that will enable

these companies to collect and remit the MAT on behalf of operators using their platforms.

To date, Airbnb is the only company that has signed a VCA to collect and remit the MAT on behalf of operators. Revenue Services and MLS continue to work closely to ensure that as additional short-term rental companies become licenced to operate within the City, that they are also encouraged to enter into a VCA where feasible and in-line with their business models.

The digital reporting tool is still being finalized. Implementation of this reporting tool is targeted to be complete and ready for short-term rental operators to report and pay the MAT collected, for the first quarter due date of April 30, 2021.

Table 2: Due dates for MAT reporting and remittance

Quarterly Period	Due Date
January 1 - March 31	April 30
April 1 - June 30	July 30
July 1 - September 30	October 30
October 1 - December 31	January 30

Public and Stakeholder Communication

In order to inform the public and stakeholders of the new regulations, staff worked with Strategic Communications to develop an extensive public education campaign that launched alongside the new registration portal. This included an update to the Short-Term Rental Updates listserv (2,325 subscribers), new and updated City webpages, a six-week advertising campaign (mix of transit, digital, print and social media), the development of a Good Operator Guide, and more. This was followed by another advertising campaign in December 2020.

Staff also worked closely with stakeholders affected by the new regulations, including short-term rental companies as well as hotels, bed and breakfasts, condominium boards, real estate associations and resident associations.

Enforcement

On January 1, 2021, the City began to phase in enforcement efforts against short-term rental operators that are not registered or are not following the rules, as well as against companies that allow unregistered operators to list on their platform or contravene the by-law. Prior to this date, the City approached enforcement on a complaint basis, investigating related service requests made through 311.

MLS has a Compliance and Audit team that uses multiple sources of data to identify potential by-law contraventions. The Compliance and Audit team has four staff that

support the short-term rental licensing and registration program, as well as other licensing of app-based services such as Private Transportation Companies regulated under the vehicle-for-hire by-law. The use of data-scraping (i.e. the extraction of data, such as from a website, for analysis) and automated processes will be the primary enforcement mechanism under Chapter 547, due in particular to the large number of short-term rentals operators and listings.

To support data-scraping efforts, MLS recently posted a request for proposals (RFP) for data discovery services. This will include data-scraping services on short-term rental data to support the objective of identifying non-compliance, to enhance voluntary compliance, and to direct resources to higher risk operations. The RFP is now closed and staff are working to award a company in the coming months.

To supplement the City's compliance efforts, MLS will also be receiving external auditor services from KPMG as part of a pre-existing contract. In 2020, a competitive procurement process resulted in KPMG being awarded a one-year contract to undertake external audit services for both vehicles-for-hire and short-term rentals, with an option to renew for up to an additional three years. The external audit will provide independent assurance from a reputable third party auditor that the compliance and regulatory requirements are being met.

The Compliance and Audit team has been actively monitoring short-term rental listings to verify registration numbers, and identifying businesses that are facilitating short-term rental reservations that may need to become licensed as a short-term rental company.

When non-compliance is found, it is brought to the attention of Investigation Services for investigation and enforcement action. Five enforcement staff support the short-term rental licensing and registration program. By-law Enforcement Officers have the ability to issue Notices of Violation to bring companies and operators into compliance, and lay charges if compliance is not achieved. Chapter 547 also provides the City the ability to prohibit renewal of annual registration for non-compliant operators, and revoke a registration if there are reasonable grounds to do so.

MLS has become aware of some listings that may feature false or incorrect registration numbers, and is working to investigate these. The City's objective is to bring operators and companies into compliance with the new regulations, which can take time. Each case is being investigated thoroughly to ensure that sufficient evidence is obtained should the City proceed with enforcement action. The City is also working closely with licensed short-term rental companies to remove any listings that do not have valid City-issued registration numbers.

By-law Enforcement Officers also investigate service requests (complaints) related to short-term rentals that are received through 311. On January 1, the City launched an online complaint portal on 311 to provide a quick and easy way for residents to file complaints related to short-term rentals.

Between January 1 and January 24, 2021, the City received 96 complaints related to short-term rentals. These were largely in response to concerns around suspected short-term rental operators not in compliance with the new regulations (e.g. operating without

being registered). In the same time period, staff issued one Notice of Violation and four charges related to short-term rentals. Of these four charges, two were in relation operating a short-term rental without registration, and two were in relation to renting or advertising a short-term rental in a property outside of a principle residence.

This represents an early snapshot of 24 days of enforcement of the City's short-term rental regulations. Staff will continue to educate, investigate and use available enforcement tools to bring short-term rental companies and operators into compliance moving forward.

Before January 1, 2021, the City approached enforcement on a complaint basis, investigating related service requests made through 311. Between 2019 and 2020, the City received a total of 1,231 complaints related to short-term rental properties. The majority (83%) of these complaints were related to zoning, followed by other City by-law contraventions such as noise, waste and property standards. In this time period, the City issued 40 Notices/Orders to Comply and laid 3 charges.

COVID-19 and Short-term Rentals

In response to the COVID-19 pandemic, changes to short-term rental rules were made at the provincial level throughout 2020. The Government of Ontario issued an Emergency Order under the Emergency Management and Civil Protection Act (EMCPA) on April 4, 2020 that prohibited recreational and tourist bookings of short-term rental accommodations, which was revoked on June 4, 2020.

On November 23, 2020, Toronto entered the "Grey – Lockdown" category of the Government of Ontario's COVID-19 response framework in an effort to reduce and eliminate the transmission of COVID-19. At the time of writing this report, short-term rentals can only be provided to individuals who are in need of housing, as per provincial regulations.

Compliance Questions and Answers

The following information is provided in response to a series of questions from the Planning and Housing Committee on January 19, 2021:

1. Will short term rental companies de-list all those properties that have no valid, City-issued permit number attached?

Short-term rental companies are required to remove all listings that do not have a valid, City-issued registration number. The following companies have informed MLS that properties without a registration number have either been removed or converted into long-term rentals (i.e. minimum 28 night bookings):

- Airbnb listings without registration numbers were either removed or converted between January 8 and January 11, 2021;
- Existing listings without registration numbers on Booking.com were removed as of January 1, 2021;
- TripAdvisor has taken all steps to prohibit short-term rentals in Toronto on their website as of early January, 2021;

- Expedia ceased short-term rental operations in Toronto at the end of October 2020.

Staff are currently in the process of validating the above and confirming compliance. This work will be further supported by the upcoming award of the RFP for data-scraping services.

2. Will short-term rental companies ensure that only valid city registration numbers are used?

Chapter 547, Licensing and Registration of Short-term Rentals requires short-term rentals companies to ensure that listings have valid registration numbers. The City has published all valid registration numbers on its Open Data portal, which is accessible to the public and to short-term rental companies.

The Compliance and Audit team within MLS supplements this by reviewing data to ensure compliance with this requirement. The City will begin receiving monthly data from licensed short-term rental companies, which will indicate the registration numbers that are being used in each listing. When invalid registration numbers are found in these datasets, MLS can investigate accordingly.

3. How will short-term rental companies distinguish between a valid and a made up registration number?

Chapter 547, Licensing and Registration of Short-term Rentals requires short-term rental companies to ensure that all listings on their platforms have valid City-issued registration numbers. If the City becomes aware of an invalid registration number being used on a short-term rental company platform, it will request that listing be taken down or removed.

The City does not specify how short-term rental companies distinguish between valid and invalid registration numbers. For example, City-issued registration numbers are provided in a pre-determined format, and some companies have proposed programming the relevant fields in their platforms to only accept the valid registration number format. Registration numbers are available on the City's Open Data portal.

The City is still in the very early stages of compliance and enforcement efforts, and when invalid registration numbers are found, staff must verify this information and request that the short-term rental company remove the listing, which can take time.

4. Will short-term rental companies de-list all properties that currently say "exempt" in their registration field?

The City has confirmed that certain properties listed on Airbnb use the term "exempt" in their registration number field if they have determined the operator is exempt from the requirement to register with the City. For example, Airbnb exempts listings that are not subject to the short-term rental regulations, such as those that are regulated as traditional accommodation establishments (e.g. hotels, motels, hostels) and properties

that can be rented for longer than 28 consecutive days. Staff are not aware of other short-term rental companies using this term on their platforms.

Next Steps

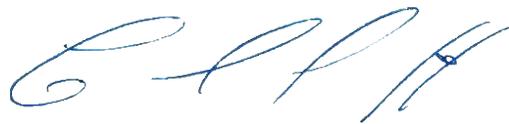
MLS will continue to proactively investigate and enforce against non-compliance with the short-term rental regulations among both operators and companies.

Staff are also working with the Housing Secretariat on a future report to respond to a directive related to short-term rentals shifting to the long-term rental housing market, and can provide a further update on implementation as part of this report. This report is expected at the April 22 meeting of the Planning and Housing Committee.

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