



# Audit of Short-Term Rental Program and Municipal Accommodation Tax: Strengthening Bylaw Enforcement and Enhancing Municipal Accommodation Tax Collection Processes

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**TORONTO**

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# Table of Contents

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|                                                                                                                                                                                                                                                        |    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| Executive Summary .....                                                                                                                                                                                                                                | 1  |
| Background .....                                                                                                                                                                                                                                       | 10 |
| Audit Results .....                                                                                                                                                                                                                                    | 15 |
| A. Strengthening the Risk-Based Compliance Framework to Help Achieve the Bylaw's Intended Goals and Objectives.....                                                                                                                                    | 15 |
| A. 1. The Short-Term Rental Bylaw Is Difficult to Enforce .....                                                                                                                                                                                        | 15 |
| A. 2. Minimize Unregistered Operators, Unlicensed Platforms, and Pirated Listings .....                                                                                                                                                                | 21 |
| A. 3. The Licensing and Registration of Short-Term Rentals Bylaw Has Gaps .....                                                                                                                                                                        | 25 |
| B. Improve Program Effectiveness and Efficiencies.....                                                                                                                                                                                                 | 29 |
| B. 1. Need for a Comprehensive, Proactive, and Risk-Based Framework for Compliance and Enforcement.....                                                                                                                                                | 29 |
| B. 2. Operator Registrations Can be Processed in a Timelier Manner .....                                                                                                                                                                               | 31 |
| B. 3. Compliance and Investigation Processes Need to Be Streamlined .....                                                                                                                                                                              | 34 |
| B. 4. Reliability and Quality of Short-Term Rental Data Should be Improved .....                                                                                                                                                                       | 37 |
| B. 5. Short-Term Rental Data Retention Policy Needs to be Developed .....                                                                                                                                                                              | 39 |
| C. Processes Should Be Enhanced to Ensure the Remittance of the Municipal Accommodation Tax Is Accurate, Complete, and Processed in a Timely Manner.....                                                                                               | 40 |
| C. 1. MAT Remittance May Not Be Accurate Or Complete .....                                                                                                                                                                                             | 42 |
| C. 2. Controls Required to Ensure MAT Quarterly Reports Are Filed on a Timely Basis .....                                                                                                                                                              | 44 |
| D. Need to Enhance Key Performance Indicators and Targets to Evaluate Program Effectiveness and Efficiency.....                                                                                                                                        | 46 |
| Conclusion.....                                                                                                                                                                                                                                        | 49 |
| Audit Objectives, Scope, and Methodology .....                                                                                                                                                                                                         | 50 |
| Exhibit 1: Timeline for Implementation of the Short-Term Rental Program and Bylaw.....                                                                                                                                                                 | 53 |
| Exhibit 2: Geographic Distribution by Ward of Short-Term Rental Registrations, as of February 29, 2024 .....                                                                                                                                           | 54 |
| Appendix 1: Management's Response to the Auditor General's Report Entitled: "Audit of Short-Term Rental Program and Municipal Accommodation Tax: Strengthening Bylaw Enforcement and Enhancing Municipal Accommodation Tax Collection Processes" ..... | 55 |

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## Executive Summary

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Toronto's housing market has faced growing affordability challenges for many years. A City staff report in 2023<sup>1</sup> indicated the problem is most pronounced for renters. Renters make up almost half of the city's households (557,970 or 48 per cent) and 40 per cent of them are living in unaffordable housing. This affordability crisis has been exacerbated by a reduction in the supply of conventional rental housing, caused by the growth in short-term rentals, such as Airbnb. According to the Canada Mortgage and Housing Corporation<sup>2</sup>, short-term rental services have disrupted housing markets across Canada, with apartments and houses being converted from traditional long-term rentals into short-term rentals.

**City Council approved regulations in late 2017 and early 2018 to address the impact on long-term housing**

In response, City Council directed staff on October 26, 2016, to create a regulatory framework for short-term rentals. City Council approved regulations to govern short-term rentals in late 2017 and early 2018, following public consultations.

The City launched its online registration system for short-term rental operators on September 10, 2020. The first full year of the operation of the system, as well as compliance and enforcement of the Licensing and Registration of Short-Term Rentals Bylaw (the bylaw) (Toronto Municipal Code Chapter 547), was in 2021.

The Municipal Licensing and Standards Division (MLS) is responsible for administering the Short-Term Rental Program and ensuring that the companies and individuals providing short-term rentals comply with the City's short-term rental and zoning bylaws.

The Revenue Services Division is responsible for ensuring the collection and processing of Municipal Accommodation Tax on short-term rental transactions.

**One of the goals of the bylaw is to minimize the negative impacts of short-term rentals on housing affordability and availability**

According to a City staff report in October 2017, the Short-Term Rental Program and the bylaw were developed with the following objectives and principles:

- Allowing people to rent their homes for short periods;
- Minimizing negative impacts on housing affordability and availability;

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<sup>1</sup> <https://www.toronto.ca/news/city-of-torontos-generational-transformation-of-torontos-housing-system-to-urgently-build-more-affordable-homes-report/>

<sup>2</sup> <https://www.cmhc-schl.gc.ca/nhs/nhs-project-profiles/2020-nhs-projects/impact-short-term-rentals-canadian-housing>

- Enabling greater diversity in tourism accommodations;
- Maintaining community stability, including in vertical communities;
- Minimizing nuisances; and
- Creating regulations that are fair and easy for people and companies to follow.

Gradual improvements in the compliance and enforcement of the program have been implemented over the four years of the City's Short-Term Rental Program.

The Planning and Housing Committee directed MLS in 2022 to report on the bylaw's implementation.<sup>3</sup> MLS organized three public consultations, conducted an online survey, gathered email submissions, and met with short-term rental operators and companies to improve the Short-Term Rental Program through amendments to the bylaw.

**Bylaw changes have been adopted by City Council in 2024**

The 2024 amendments to the bylaw, adopted by City Council on April 17, 2024, aim to:

- prevent commercialized short-term rental activity and strengthen the requirement that a principal residence be used;
- clarify the bylaw to support compliance by short-term rental operators and enforcement efforts when conducting inspections;
- close regulatory loopholes to curtail non-compliant behaviour by registered and unregistered short-term rental operators; and
- strengthen compliance mechanisms and improve data collection, sharing, and verification requirements for licensed short-term rental companies.

These changes will roll out gradually from June 30, 2024 to January 1, 2025.

**Compliance and Enforcement Activities**

As of December 31, 2023, the City has received 3,633 complaints and investigation requests about short-term rentals. Ninety-eight per cent of these (or 3,573) have been closed, with 60 remaining under investigation. MLS has filed 155 charges for non-compliance under Municipal Code Chapter 547 and has resolved 144 of them.

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<sup>3</sup> On March 25, 2022, the Planning and Housing Committee directed MLS to provide an update report on the short-term rental market and regulations, including any enforcement challenges and bylaw interpretation.

Since compliance efforts began in 2021, the City has issued a total of 84,678 takedown requests<sup>4</sup> to operators to remove their non-compliant listings for short-term rentals. Furthermore, as of April 30, 2024, the City has revoked<sup>5</sup> the registrations of 1,741 non-compliant operators.

## **Audit objectives**

The objective of this audit was to assess whether the activities of short-term rental business are effectively and efficiently regulated and enforced; and whether the Municipal Accommodation Taxes (MAT) remitted are accurate, complete, and processed in a timely manner, in order to meet the intended goals of the Licensing and Registration of Short-Term Rentals Bylaw (the bylaw).

In assessing this objective, our audit aimed to answer the following questions:

- 1) Are there opportunities to strengthen the bylaw and its regulations to help achieve its intended goals and objectives?
- 2) Is Municipal Licensing and Standards effectively and efficiently enforcing the bylaw?
- 3) Are the remittances of the Municipal Accommodation Tax for short-term rentals accurate, complete, and processed by Revenue Services in a timely manner?

### **A. Strengthen the Risk-Based Compliance Framework to Help Achieve the Bylaw's Intended Goals**

One of the primary goals of the bylaw is to enforce the principal residence requirement for the Short-Term Rental Program to protect long-term rental housing stock. To reinforce principal residence requirements, the bylaw restricts short-term rental operators from renting out their entire principal residence for more than 180 nights per calendar year and no more than three bedrooms may be rented out per night.

This bylaw is challenging to enforce and our data analysis found several indications that these rules are at risk of being violated by many operators.

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<sup>4</sup> Takedown requests refer to instructions issued by the City to the licensed short-term rental companies to remove non-compliant listings from their websites.

<sup>5</sup> Revocation refers to the cancellation of the short-term rental permit by the City for non-compliance with the bylaw.

**1,438 operators may have exceeded the 180 nights of rentals per calendar year rule**

Since 2021, approximately 1,438 operators (representing about 10 per cent of the total permits issued since inception) may have violated the bylaw by renting out their entire home for more than 180 nights per calendar year. Staff informed us that they started performing audits in 2022 to monitor compliance with the 180-night rule. However, they had not consistently retained documents supporting these audits.

**545 operators may have exceeded the three-bedroom rental per night rule**

We found that 545 operators may have violated the three-bedroom rental per night rule since 2021, as these operators had more than three transactions at their respective addresses on a given night.

**170 owners may have more than one short-term rental property**

As of February 29, 2024, 170 owners had more than one property that operated as a short-term rental, suggesting some of them may have bypassed the principal residence rules by having others obtain permits and manage rentals. Additionally, 1,100 owner-operators listed a different mailing address for their property tax bills, indicating a possible violation of principal residence rules.

**Legally approved secondary suites should be identified and investigated**

We identified 104 approved short-term rental properties between 2021 and 2023 that had either completed construction or were undergoing construction of secondary suites. Properties, where secondary suites and short-term rentals coexist, carry with them a risk that the operator may attempt to circumvent the principal residence rules.

**Risk of operators using property managers with the intent to operate a commercial short-term rental**

Our review found that, as of February 29, 2024, over 600 property managers were listed as emergency contacts by 1,153 operators. There may be legitimate reasons for some operators to use property managers as an emergency contact, particularly if they are traveling out of the country for a short time. However, heavy reliance on property managers also suggests these could be investment properties or non-principal residences. The City should consider proactively monitoring the use of property managers by operators to detect violations of the principal residence rules.



**At least 10% of historical transactions were non-compliant**

The bylaw and MLS policy require operators to ensure listing information matches the details of their short-term rental registration. Transaction data from the licensed short-term rental companies for the period 2021 to 2023 reveal a 10 per cent non-compliance rate, with half of these involving unregistered operators using someone else's registration number. Based on the transaction data from licensed short-term rental companies, we estimated that the City did not receive approximately \$140,000 from 2021 to 2023 in MAT revenue that it would have been entitled to, with respect to the pirated transactions.<sup>6</sup> Non-compliant and/or pirated transactions highlight the risk of illegal short-term rentals impacting the supply of long-term rental housing.

**Unregistered operators lead to revenue loss for the City**

Illegal or unregistered short-term rentals cost the City revenue, due to unpaid MAT and registration fees. They also pose potential risks to public safety as they may not comply with fire regulations. We found at least 250 potentially unregistered or illegal short-term rentals advertising on websites like Craigslist, Kijiji, and Facebook, or websites operated by unlicensed short-term rental companies.<sup>7</sup> The City may have missed collecting \$413,000 annually in MAT from these unregistered operators, but the actual loss could be greater, as more illegal or unregistered operators may exist.

**Bylaw does not require landlord consent**

Under the current bylaw, both owners and tenants can put their principal residence up for short-term rental. However, tenants are not required to provide proof of landlord consent for short-term rental operations. As of January 9, 2024, the City has faced three lawsuits alleging negligence in verifying that the tenant had the legal right to short-term rent the property. The City needs to clarify the roles and responsibilities of all involved parties regarding landlord-tenant matters, in consultation with the Legal Services Division, and consider adopting risk-based sampling procedures in the future for verifying landlord consent for short-term rental registrations.

**Staff currently revoke a registration if they become aware that it is in a condominium that prohibits short-term rentals**

Staff will revoke or deny an operator's registration if they are found to be operating in a condominium whose bylaws prohibit short-term renting. MLS maintains a list of condominiums that it knows have restrictions on short-term rentals. As of January 2024, MLS was aware of 145 condominiums that restrict short-term rental operations.

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<sup>6</sup> 'Pirated transactions' or 'pirated listings' refer to transactions or listings where an operator used someone else's registration number for advertising or conducting short-term rental activity.

<sup>7</sup> A short-term rental company refers to any person who facilitates or brokers short-term rental reservations via the internet and who: (1) Receives payment, compensation, or any financial benefit due to, as a result of, or in connection with a person making or completing reservations of those short-term rentals; or (2) Collects, accesses, or holds information on the number of nights that reservations of those short-term rentals are made or completed. The bylaw requires short-term rental companies to be licensed.

As of February 29, 2024, 775 condominiums had 3,158 approved registrations for short-term rentals. Of these, only 15 are on the MLS list of condominiums with restrictions noted above. MLS does not have the information to confirm whether the remaining 760 condominiums have restrictions on short-term rentals.

We surveyed 15 of the top 20 condominiums that had the highest number of permits for short-term rentals and who were not on the MLS list of condominiums that restrict or ban them. We noted that, as of February 29, 2024:

- 42 approved short-term rental units were situated in a condominium not permitting short-term rentals.
- An additional 41 approved short-term rental units were operated by tenants in a building where only owners are allowed to engage in short-term rental activity.

MLS should verify the short-term rental restrictions in these condominiums and, following current practice, consider revoking any non-conforming permits.

## **B. Improve Program Effectiveness and Efficiencies**

**Using advanced analytics and automation will help to identify non-compliance more efficiently**

To pinpoint non-compliance, the MLS compliance team primarily analyzes the transaction data for short-term rentals, focussing on past violations and active non-compliant listings. However, manual audits are resource intensive. With over 675,000 transactions between 2021 and 2023, staff cannot review every transaction. Instead, they target suspected operators, looking particularly for violations of the three-bedroom rule, by manually analyzing the transaction data.<sup>8</sup> Limited technology and staffing hinder their ability to review the data thoroughly. There is a need to use advanced analytics and automation to efficiently prioritize high-risk cases and enhance deterrence.

Staff have to manually review approximately 86 per cent of all short-term rental applications.<sup>9</sup> This creates a significant burden for them. Applications are typically flagged for manual review where there is a discrepancy between the names and addresses listed on the operator's Driver's Licence and the short-term rental application, incorrect ownership claims by applicants, address verification required by use of an Ontario Photo Identification Card, and submissions involving the addresses of multi-unit buildings where the principal residence cannot be reliably determined.

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<sup>8</sup> Under the bylaw, licensed companies must provide monthly transaction data to the City. This 'transaction data' includes check-in and check-out dates, rates charged, operator name, rental address and registration number, and the type of rental (entire or partial unit).

<sup>9</sup> Based on short-term rental applications received since inception up until February 29, 2024.



Eighty-two per cent of applications for short-term rentals were approved between 2021 and 2023. On average, these applications were approved within three weeks after submission. Sixteen per cent of applications were denied<sup>10</sup> after MLS' review and investigations. This took a longer time (four months), because of the additional investigation efforts.

**Compliance and investigation processes need to be streamlined**

MLS lacks a centralized system for tracking inquiries and complaints, leading to delays in staff responses. Two separate systems are used currently to manage these issues, requiring duplicate data entry or access to both systems. While MLS operates a central phone line for public inquiries about short-term rentals, staff may not always possess the necessary information to address the inquiries, causing delays and frustration for customers. Centralizing all complaints about short-term rentals, 3-1-1 service requests, and investigation tasks into one short-term rental database, as in other MLS enforcement areas, would improve efficiency.

**C. Ensure Municipal Accommodation Tax Remittance Is Accurate, Complete, and Processed in a Timely Manner**

**MAT remittances may not be accurate or complete**

Ensuring the accuracy of MAT payments is challenging as the transaction data provided by short-term rental companies does not include the necessary details for reconciliation. Operators provide total sales without specifying the sources of the revenue, hindering the reconciliation of the MAT with transaction data. This is equivalent to relying on an honour system. Reconciliation is crucial for ensuring accurate and complete MAT remittances.

**Better controls are required to ensure MAT quarterly reports are filed on a timely basis**

Operators must file a quarterly MAT report, outlining the previous quarter's revenue from their short-term rentals, and remit a six per cent MAT (up from four per cent effective May 1, 2023). Even in cases of zero revenue or when a licensed company handles the collection and remittance of the MAT, operators must still file their MAT reports. While one licensed short-term rental company, Airbnb, handles about 92 per cent of MAT collection and remits the operators' MAT every quarter, all operators must still file their MAT reports by the due date.

As of February 29, 2024, approximately 20 per cent of the required quarterly MAT reports (14,869 out of 73,039) were not filed for the period 2021 to 2023, with one-third of these for the most recent reporting period (2023 Q4). Additionally, just over half (37,464 out of 73,039 or 51 per cent) were submitted late.

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<sup>10</sup> This includes a small number of applications that were under investigation but were canceled by the operator before a formal decision.

Even though 92 per cent of the total MAT is collected and remitted by Airbnb, all operators must file their MAT reports on time, as they may have other sources of revenue from short-term rentals that need to be reported. Timely reporting by all operators, including those who remit MAT themselves (approximately \$1.55 million since the program's inception), helps with revenue collection and reduces administrative work for Revenue Services. Not filing the MAT report on time makes the operator non-compliant and can result in their permit being revoked.

Revenue Services needs to implement better controls to ensure that MAT quarterly reports are filed on a timely basis.

#### **D. Enhance KPIs and Targets to Evaluate Program Effectiveness and Efficiency**

##### **Need to enhance KPIs and targets to evaluate program effectiveness and efficiency**

Currently, MLS has a key performance indicator (KPI) of five days for tracking the initial response time for service requests and complaints about short-term rentals. According to MLS' KPI statistics for the period from September 2022 to December 2023, 94 per cent of short-term rental service requests were responded to within five days.

While MLS has a program dashboard and annual reports where it tracks the volume of registrations, complaints, and enforcement data, this information focuses mainly on measuring the operational activities, as opposed to the results and outcomes, and there are no targets provided for comparison. For example, MLS currently does not have service level targets for processing time of short-term rental registrations and for completing investigations.

#### **Conclusion**

The City of Toronto is in its fourth year of regulating short-term rentals and has gradually improved the compliance and enforcement of the program. However, challenges persist due to ongoing non-compliance and difficulties in enforcement, alongside limited resources, outdated techniques in data analysis, and highly manual, labour-intensive internal processes. It is essential to implement efficient and effective monitoring of the short-term rental operators' adherence to the regulations to ensure the goals of the bylaw are being achieved as intended.

For our first and second objectives, we noted challenges and gaps in the way that MLS enforced the bylaw, especially regarding the principal residence requirement. City Council recently adopted bylaw amendments to address some of the enforcement challenges. Our recommendations aim to further strengthen the enforcement of the bylaw by implementing a proactive risk-based compliance framework that integrates risk factors and advanced data analysis to identify non-compliance. Streamlining registration, implementing a real-time validation solution<sup>11</sup>, and establishing a centralized case management system will also enhance bylaw compliance by improving the efficiencies of MLS' internal processes.

For the third objective, we found that MAT remittances may not always be accurate or complete and were not being processed by Revenue Services in a timely manner in cases where operators remitted MAT themselves and filed reports late. Furthermore, ensuring the accuracy of MAT payments is challenging as the transaction data provided by short-term rental companies does not include the necessary details for reconciliation. Additional controls are needed to ensure timely MAT reports and to improve revenue collection from operators who remit MAT themselves.

Finally, implementing KPIs with meaningful targets is essential to demonstrate program effectiveness and efficiency and to identify areas for continuous improvement. This information will help in guiding the City's efforts to regulate the short-term rental market, as well as providing accountability for the program.

Implementing the 15 recommendations listed in this report will enhance the Short-Term Rental Program and collection of MAT revenue.

**Thank you to  
management and staff**

We would like to express our sincere appreciation for the co-operation and assistance we received during our audit from the management and staff of the Municipal Licensing and Standards Division and the Revenue Services Division.

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<sup>11</sup> An Application Programming Interface solution will be implemented by 2025 to allow licensed companies to check against corresponding operator registration information held by MLS in real-time.

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## Background

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### Short-Term Rental Regulations, Goals, and Implementation Timeline

Toronto Municipal Code Chapter 547, alongside zoning regulations, requires individuals to register if they want to offer short-term rentals and requires short-term rental companies<sup>12</sup> to obtain licences. Under these rules, individuals can host short-term rentals on their principal residence for less than 28 consecutive days.

#### Objectives of the Short-Term Rental Bylaw

According to an October 2017 City staff report, the Licensing and Registration of Short-Term Rentals Bylaw (the bylaw) was developed with the following objectives and principles:

- Allowing people to rent their homes for short periods;
- Minimizing negative impacts on housing affordability and availability;
- Enabling greater diversity in tourism accommodations;
- Maintaining community stability, including in vertical communities;
- Minimizing nuisances; and
- Creating regulations that are fair and easy for people and companies to follow.

#### Why does regulating short-term rentals matter?

Over many years, Toronto's housing market has faced growing affordability challenges. A City staff report<sup>1</sup> indicated in 2023 that 40 per cent of renters and just over one-quarter of homeowners are living in unaffordable housing and one in three homeowner and renter households (373,965 or 32 per cent) struggle with housing affordability. This is especially critical for renters who make up approximately 48 per cent of the City's households (equivalent to 557,970 households).

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<sup>12</sup> A short-term rental company refers to any person who facilitates or brokers short-term rental reservations via the internet and who: (1) Receives payment, compensation, or any financial benefit due to, as a result of, or in connection with a person making or completing reservations of those short-term rentals; or (2) Collects, accesses, or holds information on the number of nights that reservations of those short-term rentals are made or completed. The bylaw requires short-term rental companies to be licensed.

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The rise of online short-term rental services in recent years has disrupted the traditional housing landscape. Increasing numbers of individuals are renting residential properties or rooms for short periods, hurting both affordability and availability for renters. This trend away from long-term rentals reduces the rental housing stock, worsening the housing crisis.

**City Council directed staff to establish a framework for regulating short-term rentals**

In response to these trends, City Council directed staff to develop a regulatory framework for short-term rentals. Staff recognized, in a June 2017 report, the difficulty of precisely gauging the impact on housing availability and affordability. An estimated 3,200 properties were rented on Airbnb in 2016 without being principal residences. Staff anticipated that transitioning even half of these units back into the long-term rental market could significantly boost housing stock.<sup>13</sup>

After a period of public consultation, the City Council approved In December 2017 and January 2018 the regulation of short-term rentals in Toronto. See **Exhibit 1** for the implementation timeline.

The City of Toronto launched its online registration system for short-term rental operators on September 10, 2020. In 2022, the Planning and Housing Committee directed MLS to report on the implementation of the bylaw. To amend and improve the bylaw, MLS organized three public consultations, conducted an online survey, gathered feedback via email submissions from residents, and engaged with short-term rental operators and companies.

**Bylaw changes have been adopted by City Council in 2024**

The 2024 bylaw amendments, adopted by City Council on April 17, 2024, aim to:

- prevent commercialized short-term rental activity and strengthen the requirement that a principal residence be used;
- clarify the bylaw to support compliance by short-term rental operators and enforcement efforts when conducting inspections;
- close regulatory loopholes to curtail non-compliant behaviour by registered and unregistered short-term rental operators; and
- strengthen compliance mechanisms and improve data collection, sharing, and verification requirements for licensed short-term rental companies.

These changes will roll out gradually from June 30, 2024, to January 1, 2025.

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<sup>13</sup> <https://www.toronto.ca/legdocs/mmis/2017/ex/bgrd/backgroundfile-104802.pdf>

## Roles, Responsibilities, and Relationships among Key Short-Term Rental Stakeholders

**Short-term rental operators** rent out their principal residence or rooms in their principal residence for periods of less than 28 consecutive days and must register with the City. They are required to collect and remit a six per cent Municipal Accommodation Tax (MAT) on all transactions. As of February 29, 2024, approximately 8,400 operators of short-term rentals were registered with the City.

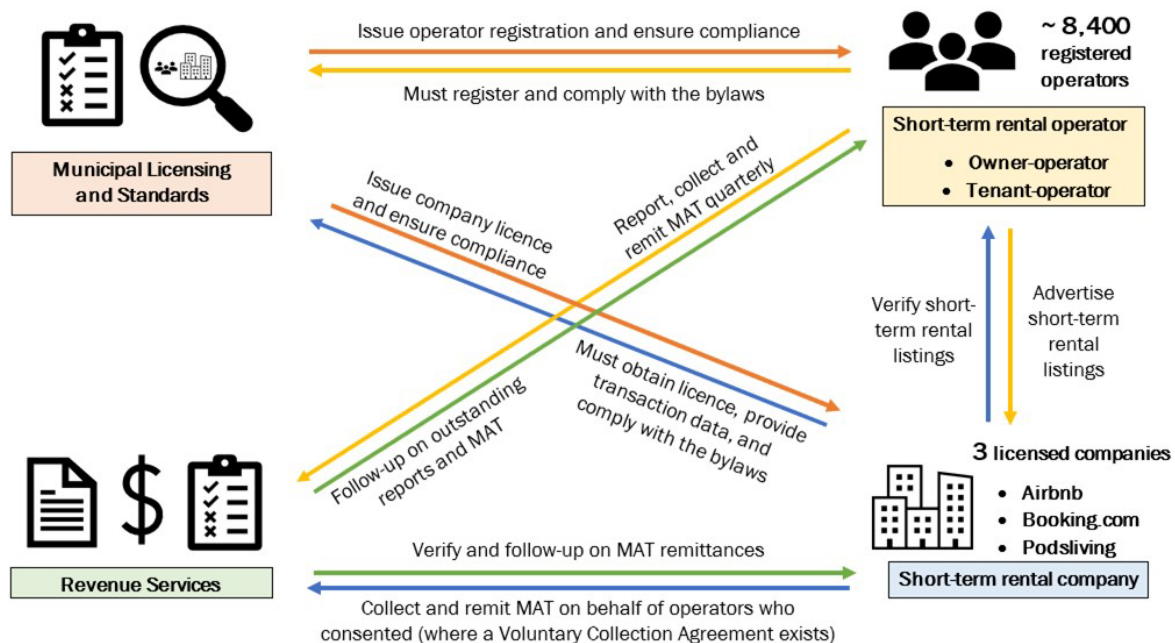
A **short-term rental company**, defined as an entity brokering and receiving payments for online reservations, must hold a licence to operate in Toronto. Currently, only three companies (Airbnb, Booking.com, and Podsliving<sup>14</sup>) are licensed in the City.

**Municipal Licensing and Standards (MLS) Division** is responsible for administering the Short-Term Rental Program and ensuring that the short-term rental operators and licensed short-term rental companies comply with the City's short-term rental and zoning bylaws.

**Revenue Services Division** is responsible for collecting and processing the Municipal Accommodation Tax on short-term rental transactions.

The following **Figure 1** describes the roles, responsibilities, and relationships between the short-term rental stakeholders.

Figure 1: Roles, Responsibilities, and Relationships Between Short-Term Rental Stakeholders



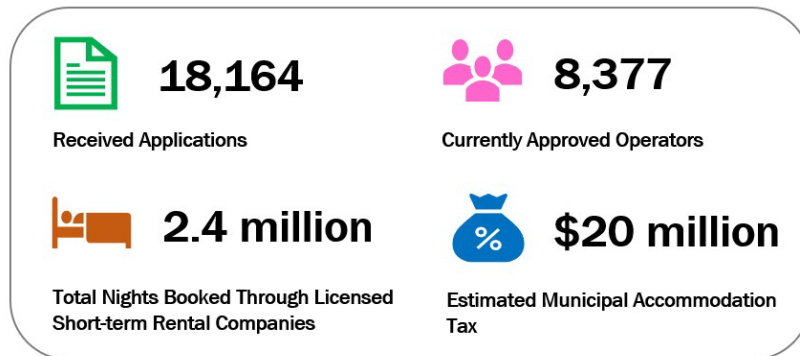
<sup>14</sup> Podsliving is one of three licensed short-term rental companies in Toronto; however, at the time of our audit fieldwork, it did not have any active short-term rental listings.



## Overview of Program Data

Figure 2 below presents key program data from the inception of the program on August 31, 2020, to February 29, 2024 and **Exhibit 2** shows the geographic distribution of short-term rental registrations as of February 2024:

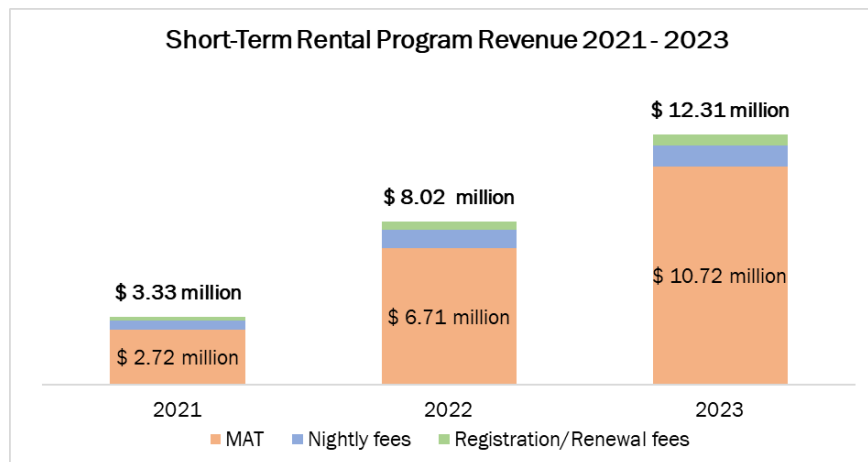
Figure 2: Key Program Data of Short-Term Rental Registration from Program Inception to February 29, 2024



**Note:** 92% of MAT revenue was collected and remitted by Airbnb.

Figure 3 below shows the MAT revenue, nightly fees, and registration/renewal fees collected from 2021 to 2023. Over the three years, the MAT revenue has increased by 294 per cent.

Figure 3: Short-Term Rental Program Revenue (2021-2023)

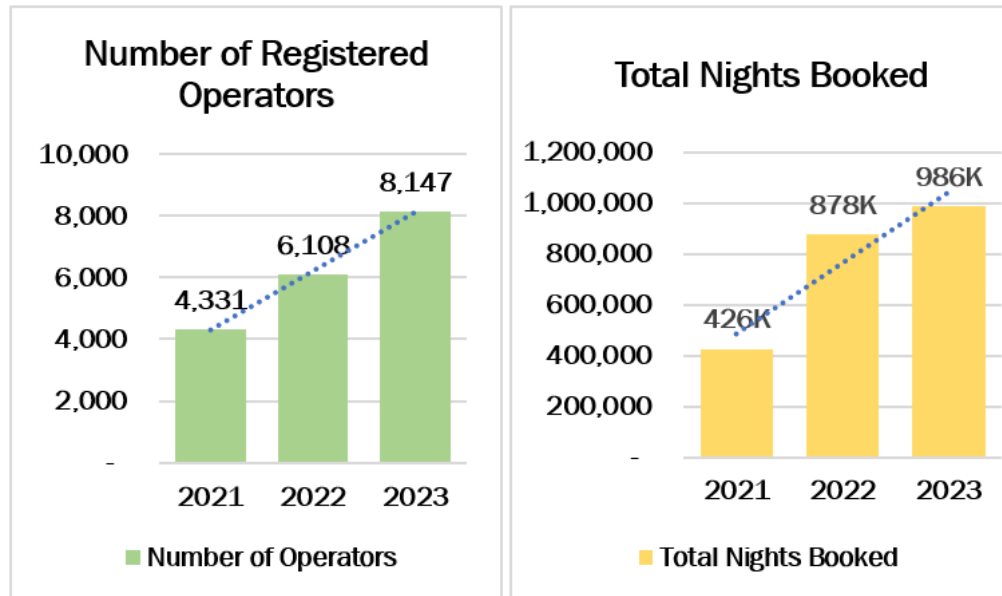


**Note:** Registration/renewal fees are collected to cover the administration costs of the program. Licensed short-term rental companies are required to pay an ongoing nightly fee<sup>15</sup> for every short-term rental night booked through their online platform. MAT is considered a non-program tax revenue that funds Destination Toronto, which supports the tourism industry, as well as City programs and services that visitors use. (E.g., roads, transit, culture, parks, natural areas, and recreation).

<sup>15</sup> Nightly fee was \$1 in 2021, \$1.02 in 2022, \$1.06 in 2023 and \$1.10 at the time of our audit in 2024. The nightly fee will increase to \$1.50 starting June 30, 2024.

**Figure 4** below shows the number of registered operators increased by 88 per cent from 2021 to 2023, and that the number of nights booked in short-term rentals increased by 131 per cent within the same period.

**Figure 4: Short-Term Rental Registrations and Bookings (2021-2023)**



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# Audit Results

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## A. Strengthening the Risk-Based Compliance Framework to Help Achieve the Bylaw's Intended Goals and Objectives

### A. 1. The Short-Term Rental Bylaw Is Difficult to Enforce

#### Challenging to enforce the principal residence requirement

One of the goals of the bylaw is to deter hosts from using investment properties for short-term rentals. Such rentals decrease the availability of long-term rental housing, as properties that could accommodate long-term residents are instead operated exclusively as short-term rentals. Therefore, the City has decided that the short-term rental property must serve as the operator's principal residence and that they must live there for not less than six months each year.

Enforcing the principal residence requirement can be challenging, as some hosts may falsely claim a property to be a principal residence. To identify non-compliance, the Municipal Licensing and Standards Division (MLS) requires strong data analytics and the use of other City databases. However, we found that it conducts only limited analysis of the information it has on its short-term rental registrations and transactions.

We performed detailed data analysis of the City's short-term rentals, utilizing transaction data, the short-term rental database, the City's property tax database, and publicly available data from the Toronto Building Division. As a result, we have found significant risks of principal residence rules violation and signs of commercial operations. Please see the following sections outlined in **Figure 5** for details.

Figure 5: High-Risk Indicators of Violation of Principal Residence Rules



### 1. Exceeding the Permissible Limit of 180 Nights Per Calendar Year

To reinforce the principal residence requirements, the bylaw restricts short-term rental operators from renting out their entire principal residence for more than 180 nights per calendar year.

**1,438 operators may have exceeded the 180-night rule**

Our analysis of transaction data from 2021 to 2023 showed that approximately 1,438 operators, representing around 10 per cent of the total permits issued since inception, may have rented out their entire home for more than the permissible limit of 180 nights per calendar year.

These operators rented out their entire homes for an average of 228 nights per year; 48 nights more on average than the permissible limit. Although many had their permits revoked, 387 operators still hold valid permits as of February 29, 2024.

MLS staff indicated they started performing audits in 2022 to monitor compliance with the 180-night rule. However, they have not consistently retained documents supporting these audits. MLS should document the results and the actions taken.

**Figure 6** summarizes the number of operators who may have exceeded the 180-night rule from 2021 to 2023:

**Figure 6: Number of Operators Who May Have Exceeded the 180-Night Rule (2021 to 2023)**

| Transaction Year        | Permit Status, as of February 29, 2024 |                   |              |
|-------------------------|----------------------------------------|-------------------|--------------|
|                         | Remain Approved                        | Revoked/Cancelled | All          |
| 2021                    | 84                                     | 325               | 409          |
| 2022                    | 314                                    | 693               | 1,007        |
| 2023                    | 52                                     | 232               | 284          |
| Total Unique Operators* | <b>387</b>                             | 1,051             | <b>1,438</b> |

\*Some operators may have violated the 180-night rule in multiple years.

**Note:** As discussed in **Section A.2.**, the above data may include some transactions that were conducted by unregistered operators who illegally used legitimate short-term rental registration numbers of approved operators. Such actions may cause some legitimate operators to appear as if they have exceeded the 180-night per year limit. Therefore, an investigation should be performed by MLS to isolate such transactions.

## 2. Operators Renting Out More Than Three Bedrooms Per Night

An operator can rent out part of their principal residence (up to three bedrooms) for an unlimited number of nights per year or the entire home for a maximum of 180 nights per calendar year.

### 545 operators may have exceeded the three-bedroom rule

Our analysis of transaction data from 2021 to 2023 suggests that 545 operators may have violated the three-bedroom rule, as they rented out more than three bedrooms on a given night.

As of February 29, 2024, 191 of these operators still held a valid permit. Most of these operators had between four and 10 transactions per night; and 44 of these operators rented out, in a year, between 50 and 276 nights where they may have exceeded three transactions per night.

**Figure 7** summarizes the number of operators who may have violated the ‘maximum three-bedroom per night’ rule from 2021 to 2023:

**Figure 7: Number of Operators Who May Have Exceeded the Maximum Three-Bedroom Per Night Rule (2021 to 2023) and Their Permit Status as of February 29, 2024**

| Transaction Year        | Number of Operators Exceeding the Three-Bedroom Rule with Permit Status |                 |                     |                 |                  |                 |
|-------------------------|-------------------------------------------------------------------------|-----------------|---------------------|-----------------|------------------|-----------------|
|                         | Remain Approved                                                         |                 | Revoked / Cancelled |                 | All              |                 |
|                         | No. of Operators                                                        | No. of Nights** | No. of Operators    | No. of Nights** | No. of Operators | No. of Nights** |
| 2021                    | 29                                                                      | 837             | 125                 | 5,742           | 154              | 6,579           |
| 2022                    | 98                                                                      | 4,808           | 224                 | 13,060          | 322              | 17,868          |
| 2023                    | 114                                                                     | 1,968           | 161                 | 5,137           | 275              | 7,105           |
| Total Unique Operators* | 191                                                                     |                 | 354                 |                 | 545              |                 |
| Total Nights**          |                                                                         | 7,613           |                     | 23,939          |                  | 31,552          |

\*Some operators may have violated the three-bedroom rule in multiple years.

\*\*Number of nights where the operator may have exceeded the three-bedroom rule indicated by more than three transactions on a particular night.

**Note:** The above data includes some transactions that were conducted by unregistered operators who illegally used legitimate short-term rental registration numbers of approved operators. This would potentially inflate the number of transactions to be accounted for on a given night, causing some legitimate operators to appear as if they have violated the three-bedroom rule.

There is a high risk these operators either have multiple properties using the same operator number for short-term rentals or are running rooming houses.<sup>16</sup> MLS should further investigate these operators to determine if their permits should be revoked.

### 3. Owners with Multiple Short-Term Rental Properties

#### 170 owners may have more than one short-term rental property

When we looked up the property ownership information of the short-term rental properties in the City's property tax databases, we found that, as of February 29, 2024, 170 owners may have more than one property that operated as a short-term rental, suggesting some of them may have bypassed the principal residence rules by having others obtain permits and manage rentals.

Since an operator can only designate one home as a principal residence at any given time, there is a risk that some owners may have attempted to bypass the principal residence rules by having others, like family members, obtain a permit on their behalf so they could have multiple short-term rental properties. However, the bylaw allows non-owners to apply for a permit if it is their principal residence.

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<sup>16</sup> The City defines a rooming house, also known as a multi-tenant house, as a building where four or more rooms are rented out to separate people. Tenants may share the kitchen and/or washroom but they do not live together as a single housekeeping unit.



Property tax records only include names without personal information, such as birth dates, which are needed to conclusively verify the identity of a particular individual. While it can be challenging to accurately match owners solely based on names, the analysis of owner names will help identify suspicious accounts for MLS to investigate for possible violations of the rules restricting commercial short-term rentals.

**1,100 owner-operators have different mailing addresses for their property tax bill compared to the address of their short-term rental property**

In addition, our review of the short-term rental database found 1,100 owner-operators who, between the years 2021 to 2023, had listed a mailing address to receive property tax bills for their short-term rental unit that is different from their principal residence. Of these 1,100 owner-operators, 460 still held a valid permit as of February 29, 2024. There could be a number of reasons why someone does not have their property tax bills mailed to a short-term rental property that is claimed as their principal residence. However, this should be viewed as a risk that the short-term rental property may not be their principal residence.

#### **4. Properties With Legally Approved Secondary Suites**

Recent changes to the bylaw, effective June 30, 2024, specify that operators can designate only one dwelling unit on the property as their principal residence. In the case of multiple units, MLS must verify that the unit used for short-term rental purposes is the operator's principal residence.

**Legally approved secondary suites should be identified and inspected**

However, if the property is a house, the current application for short-term rentals only requires the applicant to attest to which part of the house they live in and which part they intend to rent out through the option of a 'secondary suite' (e.g., basement).

Utilizing publicly available data from the Toronto Building Division, we identified 104 approved short-term rental properties between 2021 and 2023 that had either completed construction or were undergoing construction for secondary suites. Properties, where secondary suites and short-term rentals coexist, have a higher risk that the operator may attempt to circumvent the principal residence rules.

However, MLS currently does not use data from the Toronto Building Division to proactively monitor properties for non-compliance with the principal residence rules. Properties with legally approved secondary suites should be proactively identified and inspected.

## **5. Registered Operators Using Their Registration for Multiple Properties**

We also noted that 67 registered operators of short-term rentals had used their registration numbers for other units that were not registered. Only one registered unit is permitted per operator due to the principal residence requirements. These operators were likely violating the principal residence requirement by operating multiple properties as short-term rentals.

## **6. Operators Relying on Property Managers to Run Short-Term Rentals**

**Many operators have indicated the use of property managers**

Short-term rental operators can provide business contact details on their permit applications when they use a property management company. Our review found that over 600 property managers were listed by 1,153 operators as emergency contacts. Some of these property managers provide services to multiple short-term rental hosts. Many property managers are listed as hosts or co-hosts on the listings published by short-term rental companies.

**Heavy reliance on property managers may indicate a higher probability that short-term rentals are investment properties**

Though the bylaw does not prohibit the use of property managers, the intent of short-term rental operators in hiring one should be assessed. There may be legitimate reasons for some operators to use property managers as an emergency contact and have them assist in managing their short-term rental property, particularly if the operator is travelling out of the country for a short time. However, heavy reliance on property managers may indicate a higher probability that the operators do not live onsite and that the short-term rental units are investment properties or non-principal residences.

Besides collecting business contact information during the operator application process, MLS currently does not monitor, regulate, or prohibit the use of property managers. Proactively monitoring the use of property managers by operators can help MLS detect violations of the principal residence rules or provide indications of commercial activities.

We found that some jurisdictions actively regulate property managers. For example, the City of Ottawa requires that property managers register with the City and subject them to fees and rules, similar to the operators. The City of Vancouver requires all property managers to be licensed, regardless of the duration of the rentals they manage.

We also found that some condominium boards in the City of Toronto have established revenue-sharing agreements with a licensed short-term rental company. Under these agreements, the licensed company would share with the condominium boards the profits it makes from facilitating their short-term rentals. These arrangements often blur the distinction between short-term rentals carried out by companies and those carried out by operators from their principal residences. This presents significant challenges for MLS staff in identifying properties that have registered as principal residences but are operating as commercial short-term rentals.

City Council passed amendments to the bylaw on April 17, 2024, to address some of the challenges around enforcing the principal residence requirement. These bylaw changes will roll out gradually from June 30, 2024, to January 1, 2025.

**Recommendations:**

- 1. City Council request the Executive Director, Municipal Licensing and Standards, to expand the use of data analytics to reduce non-compliant short-term rentals and enforce compliance with the bylaw.**
- 2. City Council request the Executive Director, Municipal Licensing and Standards, to develop and implement effective risk indicators to identify non-compliant short-term rental operators who use property managers to operate a commercial short-term rental.**

## **A. 2. Minimize Unregistered Operators, Unlicensed Platforms, and Pirated Listings**

The bylaw requires that all operators hold a valid registration number if they want to offer short-term rentals. They must also pay a six per cent Municipal Accommodation Tax on rental revenue to the City's Revenue Services Division. Operators can advertise on licensed short-term rental sites like Airbnb and Booking.com or any other medium with a valid registration. They must display the registration number in all advertisements. Failure to comply may lead to fines and penalties.

### **Non-Compliant and Pirated Transactions**

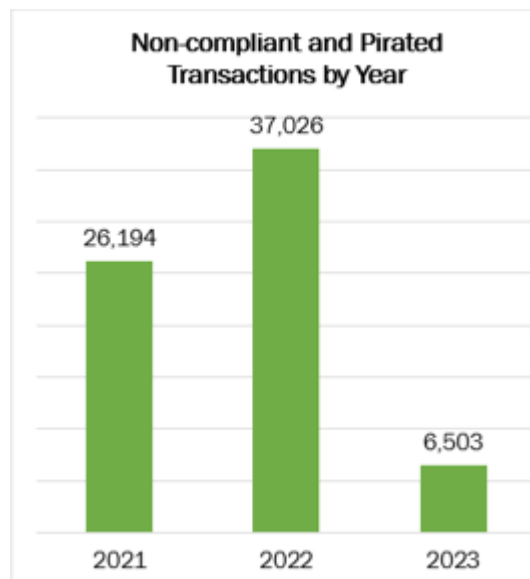
The bylaw and MLS' policy require operators to ensure that the information in their listing matches exactly the information on their short-term rental registration with the City. If the information does not match, the operator's permit has either been pirated by someone else (an unregistered operator illegally using the permit number of a registered operator) or is non-compliant (incorrect information used in the listings).

According to MLS' policy, if the information on the operator's listing does not match the registration information, or if the listing has missing or inaccurate information, the operator's listing could be removed by the short-term rental companies and they could cancel any reservations made on the short-term rental unit.

The bylaw requires licensed companies to ensure that a short-term rental operator is registered with the City and is using their corresponding registration number.

Transaction data for the period 2021 to 2023 showed that at least 10 per cent of short-term rental transactions were non-compliant, with half of those being pirated.<sup>17</sup> According to **Figure 8**, the trend was increasing in 2022 but has decreased 75 per cent from 2021 to 2023.

**Figure 8: Non-Compliant and Pirated Transactions (2021 to 2023)**



The City requires licensed short-term rental companies to take down, within 24 hours, any listing posted by an unregistered or non-compliant operator; this is referred to as a takedown request. According to the March 21, 2024 staff report, the City has issued a total of 84,678 takedown requests to licensed short-term rental companies (1,750 in 2021; 61,288 in 2022; and 21,640 in 2023).

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<sup>17</sup> 'Pirated transactions' or 'pirated listings' refer to transactions or listings where an operator used someone else's registration number for advertising or conducting short-term rental activity. It is difficult to conclusively identify pirated transactions or listings without case-by-case investigation. 'Illegal operator' refers to the operators who engage in short-term rental activity without a valid permit.

Staff noted that the volume of takedown requests has steadily declined from 2022 as more operators have been brought into compliance and enforcement actions have been undertaken against operators attempting to circumvent the bylaw. This is reflected in the declining number of non-compliant and pirated transactions seen in 2023, compared to previous years.

As of April 30, 2024, the City has also revoked 1,741 short-term rental registrations. Revocation refers to the cancellation of the short-term rental permit by the City for violation of the bylaw.

Based on the transaction data from licensed short-term rental companies, we estimated that the City did not receive approximately \$140,000 from 2021 to 2023 in MAT revenue with respect to the pirated transactions.

Despite the decrease from 2021 to 2023 in the number of non-compliant and pirated transactions involving licensed short-term rental companies, MLS staff advised us that licensed short-term rental companies lack the information needed to verify the registration status of the operator advertising on the companies' platforms. Currently, when operators create listings, licensed companies use the City's publicly available open data to try to verify their registration status. However, the City's open data lacks the operator's name and full postal code, limiting the rental companies' ability to validate credentials. Given that at least 10 per cent of total transactions between 2021 and 2023 were non-compliant or pirated, this means that the licensed short-term rental companies have not removed many non-compliant listings.

MLS staff also informed us that an Application Programming Interface (API) solution will be implemented by 2025 to allow licensed companies to check in real-time against corresponding operator registration information held by MLS, to decrease the number of non-compliant listings.

**Recommendation:**

- 3. City Council request the Executive Director, Municipal Licensing and Standards, to:**
  - a. Complete the implementation of an Application Programming Interface solution allowing licensed short-term rental companies to verify the registration information of short-term rental operators and minimize the number of non-compliant listings; and**
  - b. Hold licensed short-term rental companies accountable for identifying and removing non-compliant listings.**

## Unregistered Operators and Unlicensed Platforms

In addition to the non-compliant and pirated operators found on licensed platforms, we also found illegal short-term rentals being offered on unlicensed platforms and websites. These illegal activities not only present a public safety risk but also pose a potential revenue loss to the City due to non-remittance of the MAT, nightly fees, and the annual operator registration fees.

### **Illegal operators present public safety risks to renters and the community**

Recent incidents in other jurisdictions underscore the public safety risks posed by short-term rental operators who do not have a valid registration number or are using unlicensed platforms. For instance, seven people died in 2023 after a fire broke out in a historic building in Montreal that had illegally rented out short-term rental units for years. The building had been cited over the years for multiple fire code violations.

All short-term rental properties in Toronto must comply with the Ontario Fire Code and the Ontario Building Code. During registration, operators must certify compliance with these codes. Therefore, it is crucial, from a public safety standpoint, for all operators engaged in short-term rentals to register and ensure compliance with safety standards.

### **Potential loss of \$413,000 in MAT from unregistered operators**

Furthermore, through our internet searches, we found at least 250 potentially unregistered or illegal short-term rentals advertising on websites like Craigslist, Kijiji, and Facebook, or websites operated by unlicensed short-term rental companies.<sup>18</sup> These illegal listings lacked the mandated short-term rental registration numbers. Using the average operator earnings in 2023, we estimated that the City may have missed collecting at least \$413,000 a year in MAT from unregistered operators.

There could be a number of reasons why these unregistered operators do not want to register. For example, they may have listings for a number of properties that are not their principal residence, or they may be tenants offering short-term rentals without the landlord's consent. As discussed earlier, the principal residence rules aim to preserve the City's housing stock by discouraging the use of investment properties as short-term rentals.

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<sup>18</sup> A short-term rental company refers to any person who facilitates or brokers short-term rental reservations via the internet and who: (1) Receives payment, compensation, or any financial benefit due to, as a result of, or in connection with a person making or completing reservations of those short-term rentals; or (2) Collects, accesses, or holds information on the number of nights that reservations of those short-term rentals are made or completed. The bylaw requires short-term rental companies to be licensed.



It is difficult to pursue charges against these illegal operators, especially when these postings are anonymous or lack identifiable information such as full addresses, contact information, or names. Enhanced enforcement and detection techniques, as well as additional resources, will help to identify these illegal operators and enforce compliance with the bylaw. However, we found that MLS currently lacks a proactive approach and a formal process to identify and address these illegal operators.

**Recommendation:**

- 4. City Council request the Executive Director, Municipal Licensing and Standards, to develop a process for proactively identifying and addressing illegal short-term rentals advertising online and unlicensed short-term rental companies.**

### **A. 3. The Licensing and Registration of Short-Term Rentals Bylaw Has Gaps**

#### **Landlord Consent**

Under the current bylaw, both owners and tenants can short-term rent their homes if it is their principal residence. MLS expects tenant-operators to obtain permission from their landlord for short-term renting because tenants are expected to adhere to their lease agreements and the *Residential Tenancies Act*. However, the bylaw does not require tenants to provide lease documents or proof of landlord consent when they apply for a short-term rental permit on the leased unit.

As of January 9, 2024, the City had received three lawsuits alleging that the City facilitated the registration and short-term rental of a condominium unit but neglected to verify consent from the tenant's landlord or the tenant's legal right to rent the property on a short-term basis.

The City's bylaws don't require the City to verify a tenant's right to sublet before issuing a short-term rental permit. The City currently has no obligation to enforce condominium bylaws or tenancy agreements, deeming them private matters for resolution through the Landlord and Tenant Board. MLS' website for short-term rentals describes the responsibility of the tenant and stipulates that tenants must ensure they have the landlord's permission to engage in short-term rentals.

The City does not require applications for permits to include proof of landlord consent. Landlord consent could help minimize the City's exposure to potential legal claims and would mirror procedures in other cities like Ottawa, Vancouver, and New York, who notify the landlord when a tenant applies for a permit or require the tenant to obtain the landlord's written consent before applying.

The City needs to clarify the roles and responsibilities regarding landlord-tenant matters of all involved parties and consider adopting risk-based sampling procedures in the future for verifying landlord consent for short-term rental registrations.

**Recommendation:**

- 5. City Council request the Executive Director, Municipal Licensing and Standards, in consultation with the Legal Services Division, to clarify the roles and responsibilities of all involved parties regarding landlord-tenant matters and consider adopting risk-based sampling procedures for verifying landlord consent for short-term rental registrations.**

**Condominiums That Prohibit Short-Term Rentals**

**About 38% of short-term rentals are in condominiums, mostly concentrated in Ward 10 (Spadina-Fort York)**

Condominiums are the most popular property type in the City of Toronto for short-term rentals, with the highest number of registrations. As of February 29, 2024, 3,158 (or 38 per cent) of approved permits are situated in 775 condominiums, most of which are concentrated in Ward 10 (Spadina-Fort York) in downtown Toronto, which is known for its high tourist influx.

The Condominium Authority of Ontario's website says that some condominium corporations impose restrictions on short-term rentals because of the disruptions that can occur when tenants fail to adhere to condominium regulations, municipal bylaws, or other legislation.<sup>19</sup>

**Staff currently revoke a registration if they become aware that it is in a condominium that prohibits short-term rentals**

The short-term rental bylaw allows permits to be revoked if there are grounds to believe that the operator violated short-term rental or zoning bylaws. MLS rejects registrations or revokes permits in buildings if it is aware of any condominium bylaws prohibiting short-term rentals. However, given its limited resources and the substantial number of condominiums with short-term rental registrations, MLS faces challenges in knowing the condominium bylaws for all these condominiums.

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<sup>19</sup> <https://www.condoauthorityontario.ca/issues-and-solutions/short-term-rentals/>

Although not explicitly required by the short-term rental bylaw, MLS expects operators to obtain approval from condominium boards for short-term renting, as outlined on their website and application form. MLS does not require short-term rental applicants to submit a copy of their condominium bylaws outlining the short-term rental provisions. It relies on operators to comply with condominium bylaws and condominiums' notifications regarding short-term renting restrictions.

MLS maintains a list of condominiums that have various restrictions on short-term renting and continually adds any new condominiums that it becomes aware of to the list.

- As of January 2024, MLS was aware of 145 condominiums that restrict short-term rental operations. For instance, some condominiums only allow owners to engage in short-term rentals, while others prohibit them altogether. Seventy-six of these previously had or currently have short-term rental properties.
- As of February 29, 2024, 775 condominiums had 3,158 approved short-term rental registrations. Of these, only 15 are on the MLS list of condominiums with restrictions. While staff did not receive any complaints from the public or information from the remaining 760 condominiums that were not on the list, MLS does not have information to confirm whether these condominiums indeed have short-term rental restrictions.

We surveyed 15 of the top 20 condominiums with the highest number of short-term rental permits and spoke to the condominium management. These 15 condominiums were not on the MLS list of condominiums that restrict short-term rentals. The remaining five condominiums were on the MLS list but only permitted short-term rental activities by the owner.

The following **Figure 9** summarizes the short-term rental restrictions in the top 20 condominiums with the highest number of short-term rental units:

**Figure 9: Summary of Short-Term Rental (STR) Restrictions in Top 20 Condominiums with Highest Number of Short-Term Rentals, as of February 29, 2024**

| Nature of Restrictions          | Number of Condo Buildings | Number of Approved STR Units<br>(As of February 29, 2024)                              |
|---------------------------------|---------------------------|----------------------------------------------------------------------------------------|
| STR not permitted               | 1                         | 42                                                                                     |
| STR permitted only by the owner | 7                         | 417<br>(41 of these were by tenant-operators who may have violated condominium bylaws) |
| No restrictions on STR*         | 11                        | 967                                                                                    |
| Restriction unknown             | 1                         | 33                                                                                     |
| <b>Total</b>                    | <b>20</b>                 | <b>1,459</b>                                                                           |

\* Two condominium boards have a 15 per cent revenue-sharing agreement with licensed short-term rental companies to facilitate short-term rental activities within their buildings. Most of the condominiums with no restrictions on short-term renting facilitated the handover of keys or fobs to short-term rental guests through methods such as lockboxes, concierge services, or key cafés.

As shown in the table above, we found 42 approved short-term rental units located in a condominium that does not permit short-term rentals, along with an additional 41 approved short-term rental units operated by tenants in a building where only owners are allowed to engage in short-term rental activity. In line with its current practices, MLS should verify the short-term rental restrictions in these condominiums and consider revoking any permits that are in violation of the bylaw.

Although most condominiums allow short-term rentals, with some even facilitating them, MLS has not actively interacted with the condominiums having a high density of such permits to ensure compliance with bylaws. MLS presently revokes or rejects permits for short-term rentals in prohibited buildings, citing breaches of the short-term rental bylaw. However, without a risk-based approach for identifying condominiums with short-term rental restrictions, MLS may struggle to effectively enforce provisions for operator compliance.

#### **Recommendation:**

- 6. City Council request the Executive Director, Municipal Licensing and Standards, to implement risk-based sampling procedures to proactively verify that the short-term rental operators are permitted by their condominium bylaws to engage in short-term rentals of their principal residence.**

## B. Improve Program Effectiveness and Efficiencies

### B. 1. Need for a Comprehensive, Proactive, and Risk-Based Framework for Compliance and Enforcement

In 2023, the MLS compliance team was comprised of three core staff<sup>20</sup>, who dedicate most of their available time to monitoring the following short-term rental activities:

- Staff conduct the 180-night audit to identify operators renting out their entire unit for more than 180 nights annually. However, MLS was not able to provide detailed supporting documents for two of the three 180-night audits completed since the program's inception. There is also no set schedule or frequency for these audits.
- Since 2022, staff have undertaken audits to identify illegal or non-compliant operators whose names and addresses do not match the registration information associated with the permit number used in the non-compliant transaction. However, similar to the 180-night audit, MLS also does not have a set schedule or frequency for these audits.
- Staff monitor licensed short-term rental companies, i.e., Airbnb and Booking.com, for compliance issues, flagging non-compliant listings for removal, though this is only done through spot checks.
- Staff utilize data analytics and tools for compliance and enforcement investigations, primarily on a case-by-case basis. There is untapped potential to extend the data analysis to the entire transaction population.
- Non-compliant operators are referred to the enforcement team for further investigation and possible permit revocation.

Most of the compliance team's efforts are focused on analyzing short-term rental transaction data to identify instances of non-compliance. Using transaction data, staff identify previous violations and attempt to determine if operators have any active non-compliant listings. The current audit processes are highly manual and labour intensive.

### **Need for Using Enhanced Data Analytics**

As of February 29, 2024, there were approximately 8,400 approved operators of short-term rentals. Between 2021 and 2023, there were 675,712 unique transactions, for stays totalling 2.3 million nights. With such a significant amount of data, the compliance team cannot review every transaction and instead focuses on a case-by-case basis on suspected operators to determine if they comply with the bylaw. This analysis entails manually compiling transactions for each calendar night for the operators under review.

MLS staff could instead use automated solutions to analyze the entire dataset, rather than selectively examining suspect transactions, to identify operators who may have rented out more than three bedrooms or have more than three transactions on a given night.

Furthermore, similar to the tests performed as part of this audit, data analytics can be expanded to include other indicators of non-compliance, such as property ownership checks, the number of short-term rental permits per property, secondary suites, mailing address mismatches, and heavy reliance on property managers.

### **Risk-based Compliance and Enforcement Framework**

Due to the small team and the limited use of technology, staff conduct a limited review of transaction data to detect and pursue non-compliance. MLS also engages a third-party web service that scrapes the web for listings of non-compliant and illegal short-term rentals. There is an opportunity to implement a comprehensive and proactive risk-based framework for compliance and enforcement that integrates advanced data analytics and automated solutions. This approach is necessary to prioritize the highest risks, enhance deterrence, and improve compliance while ensuring the efficient use of limited resources.

### **Data-Sharing Agreement**

The data-sharing agreements with Airbnb and Booking.com both include provisions that these licensed short-term rental companies permit only compliant short-term rental listings, remove non-compliant ones, and provide the City with monthly transaction data.

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<sup>20</sup> Subsequent to our audit fieldwork, in April 2024, City Council approved an additional 23 full-time equivalent staff for the Short-Term Rental Program, of which five will be dedicated to advance program compliance efforts. The new staff complement will be effective on June 30, 2024.

After establishing a robust risk-based framework for compliance and enforcement, the City should review and update the current data-sharing agreements it has with the licensed short-term rental companies. These agreements need to be aligned with the City's evolving information needs and its efforts at risk-based compliance and enforcement. Since the bylaw mandates that only permitted properties can be listed on licensed platforms, there should be greater accountability by licensed short-term rental companies to ensure compliance on these platforms and to mitigate risks. Recently adopted changes to the bylaw address some of these gaps, by clarifying the responsibility of licensed short-term rental companies to ensure that only registered operators can advertise on their platforms and use their services to engage in short-term rentals.

**Recommendation:**

- 7. City Council request the Executive Director, Municipal Licensing and Standards, to develop a comprehensive, proactive, and risk-based framework for compliance and enforcement to assist staff in enforcing the bylaw.**

## **B. 2. Operator Registrations Can be Processed in a Timelier Manner**

As described below, the majority of the short-term rental applications are flagged for manual review, creating a significant workload for staff. Streamlining the short-term rental application process presents an opportunity to minimize processing time and enhance response times for additional information from applicants.

When an application is submitted online, the current system checks it against pre-set criteria. If all criteria are met, and the Ministry of Transportation (MTO) driver's licence information is verified, the application is automatically approved within 24 hours. If not, the system labels the application as "under review" and holds it for staff assessment. Staff then assess and decide whether to issue or deny the permit. In the case of denial, an "Intent to Deny" email is sent, giving the applicant a 10-day window to appeal. Failure to respond within this timeframe results in a final denial.

**86% of short-term rental applications require manual review by Bylaw Officers**

Historically, only 14 per cent of applications have been auto-approved by the system. The remaining applications required reviews by Bylaw Officers. The following reasons, using the information provided by the applicant, typically lead to an application being flagged for manual review:

- Discrepancies between the name and address in the Driver's Licence and the information provided in the application.
- Applicants asserting ownership of the property when they are not owners.

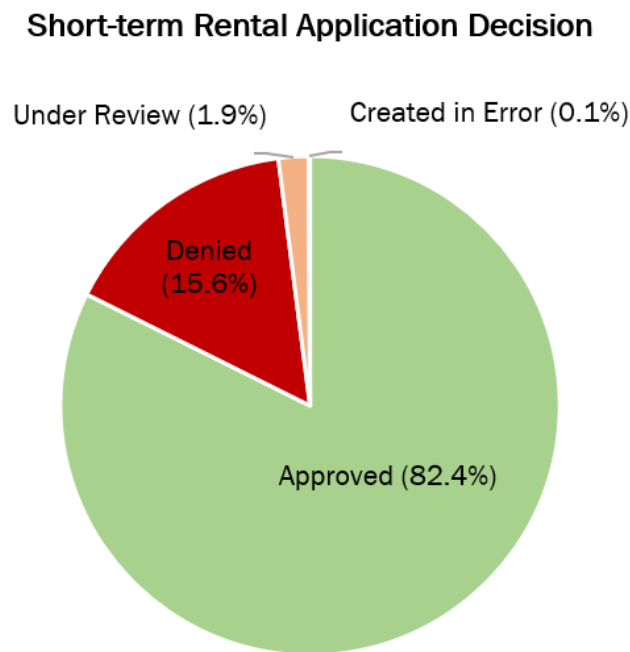


- Applicants using an Ontario Photo Card as identification. This requires an inspection of the proposed short-term rental property to verify the address and principal residence.
- An address of a multi-unit building submitted for short-term rental, where the principal residence cannot be reliably determined from the information provided.

Some errors could be easily corrected if the applicant revises the information, potentially resulting in faster permit approval. Implementing better edit controls and real-time MTO checks can prevent incorrect submissions or faster prompts for corrections, potentially reducing the need for staff to manually review applications.

**Figure 10** below shows that about 82 per cent of applications have been approved between 2021 and 2023.

**Figure 10: Decisions on Short-Term Rental Applications (2021-2023)**



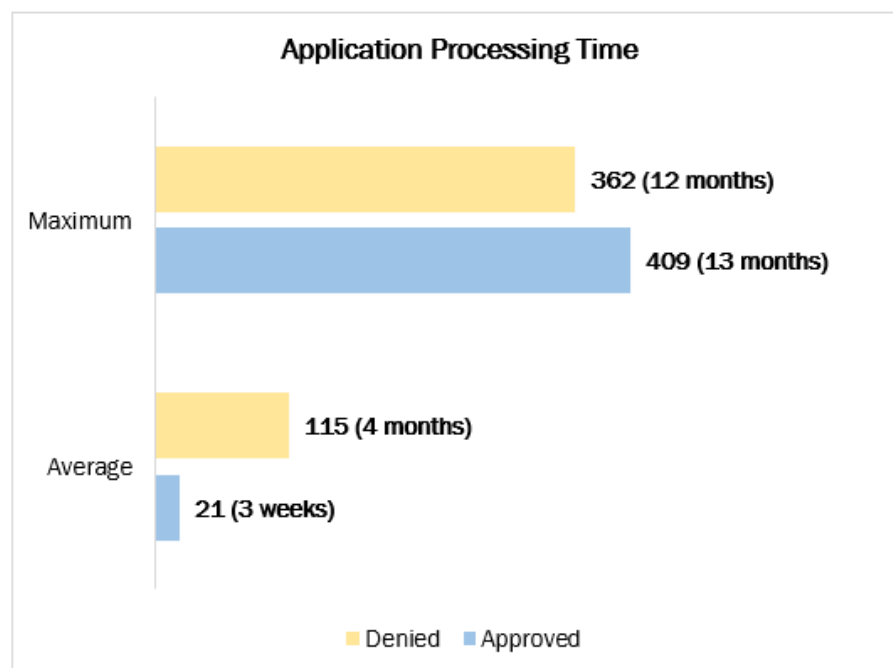
**On average, approved applications took about 3 weeks to process, and denied applications took about 4 months**

**Figure 11** below shows that on average, these applications were approved within three weeks after submission. On average, the denied<sup>21</sup> applications took a longer time (four months) due to additional investigation efforts.

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<sup>21</sup> This includes a small number of applications that were under investigation but were canceled by the operator before a formal decision was reached.

Figure 11: Short-Term Rental Application Processing Time (2021-2023)



Prolonged processing time compromises the quality of customer service provided by the City and extended delays in issuing permits delay the MAT revenue collection for the City. Our sample review of applications that took a significant time to process (i.e., over 100 days) revealed the following factors that delayed the process:

- Applications often involved initial denial followed by an appeal, which lengthened the processing time.
- The application remains open even though applicants did not provide the required information by the deadline or staff did not upload the documents provided by the applicant.
- The initial denial decision was not communicated to the applicant on time.

More importantly, we noted that most of these cases involved delays in requesting or receiving information, prolonging the processing of the application. Specifically, additional documents or information provided by applicants were not transferred on a timely basis to the Bylaw Officer reviewing the application. This is because MLS only has one general email address for both the public and short-term rental applicants to submit inquiries, provide additional information for short-term rental applications, and submit complaints. It is challenging for staff to monitor incoming emails, categorize them, transfer them, triage them, and then address them promptly. Staff must often spend time manually searching the mailbox to determine if operators have responded to additional documentation requests.

Furthermore, MLS currently does not have formal service level targets for processing applications and renewals. See **Section D** for details.

**Recommendations:**

8. City Council request the Executive Director, Municipal Licensing and Standards to develop service level targets for processing applications and renewals; and create system reports to monitor if the service level targets are met.
9. City Council request the Executive Director, Municipal Licensing and Standards, to triage the emails in the short-term rentals mailbox and ensure information provided by applicants about their application is reviewed on a timely basis; or consider an alternate automated method to improve the efficiency and effectiveness of processing information.

### **B. 3. Compliance and Investigation Processes Need to Be Streamlined**

#### **3,633 investigation requests between 2021 and 2023**

As of December 31, 2023, the City had received, from various channels, 3,633 complaints and requests for investigations about short-term rentals:

- 2,213 (or 61 per cent) were referred internally by staff;
- 704 (or 19 per cent) were received through 3-1-1; and
- the remaining 716 (or 20 per cent) were received from the online portal, phone calls, walk-ins, applications (system tasks), councillor requests, or from existing investigations.

Ninety-eight per cent of these inquiries (or 3,573) have been closed, while 60 remain under active investigation. MLS has filed 155 charges of non-compliant behaviour per Toronto Municipal Code Chapter 547 with the courts, and 144 have been resolved.

#### **Two Separate Systems**

MLS concurrently uses a short-term rental database and a separate Integrated Business Management System (IBMS) to administer the Short-Term Rental Program and manage inquiries, complaints, and investigation referrals from various sources.

- The **short-term rental database** serves as the primary system, storing all information on short-term rental permits, including application details (e.g., contact information, address, email), permit status and decision-making, and email communications. The database may also contain high-level summary notes, attached to each short-term rental permit, of the investigation work performed.
- The **IBMS** is used exclusively for investigations, storing evidence and documents related to each investigation case.

Under the current two-system approach, MLS staff must maintain parallel notes or access both systems for information. This manual process can be complex. The following **Figure 12** describes how inquiries and complaints from various sources are tracked.

**Figure 12: Tracking Methods for Complaints and Inquiries**

| Source of Complaints and Inquiries                           | Tracking Method                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>3-1-1 service requests</b>                                | <ul style="list-style-type: none"> <li>• Tracked in IBMS as an Investigation Request</li> </ul>                                                                                                                                                                                                                                                                                                                          |
| <b>Investigation referrals (sent by the compliance team)</b> | <ul style="list-style-type: none"> <li>• Tracked in IBMS since 2023</li> <li>• No systematic cross-referencing between investigation referrals and the Investigation Request numbers in IBMS (only 81 of the 335 investigation referrals were cross-referenced). As a result, staff are not able to provide a report on the outcomes of investigation referrals without going through each case individually.</li> </ul> |
| <b>Work items</b>                                            | <ul style="list-style-type: none"> <li>• Work items identified by staff or the short-term rental system that require action.</li> </ul>                                                                                                                                                                                                                                                                                  |
| <b>Complaints/inquiries from other sources</b>               | <ul style="list-style-type: none"> <li>• Tracked in IBMS depending on the nature and complexity of the complaints or the action required.</li> </ul>                                                                                                                                                                                                                                                                     |

#### **No centralized case management system**

Not having a centralized case management system also presents challenges for MLS in producing reports, and analyzing the performance and outcomes of the investigations.

For instance, while IBMS tracks violations of property standards, it does not track specific issues with short-term rentals such as the 180-night rule violations, three-bedroom rule violations, and other principal residence violations. Consequently, there are no reports available to illustrate the resolution of referrals, such as fines imposed or permits revoked; and one must review individual folders to find this information.

### 3-1-1 Requests and Investigation Requests

3-1-1 service requests are prioritized from priority 1 to priority 4 with response times dependent on factors like urgency and evidence-collection needs. Management advised us that all requests and complaints about short-term rentals are assigned a priority 2, with a target to respond within five days. The short-term rental team receives a monthly report showing high-level statistics on the initial response time taken for service requests about short-term rentals. For the period from September 2022 to December 2023, MLS' KPIs show that 94 per cent of service requests about short-term rentals were responded to within five days.

With regards to investigations, MLS has not developed any service level targets for the time it spends completing the investigations. Without tracking reports, outcomes, and the nature and disposition of investigations, the cases can only be reviewed manually, limiting MLS staff's ability to analyze common themes and summarize enforcement statistics.

#### Short-Term Rental Inquiry Phone Line

MLS operates a central phone line for inquiries about short-term rentals, managed by two staff members from the Enforcement Team. However, these staff members may not possess the necessary information to address all the inquiries, leading to delays in resolving issues and customer frustration. For instance, the phone line often receives numerous calls from operators questioning why their short-term rental listings were removed. The staff handling these calls do not have access to such information because the Compliance team is responsible for removing listings of short-term rentals. Callers are then directed to use only email to contact the Compliance Team, as there is no publicly available phone line to reach them.

Subsequent to our audit, management advised us that MLS has prepared a draft document called 'Takedown Communication Guidelines'. However, this has yet to be updated and included in the Division's standard operating procedures.

**Centralizing all short-term rental-related complaints, 3-1-1 service requests, and investigation tasks presents an opportunity for improved efficiency**

Not having a centralized system to track all inquiries and complaints received from various sources leads to inefficient use of limited staffing resources, difficulty in prioritizing tasks, and delays in responding to inquiries and complaints, which likely reduces customer satisfaction. Centralizing all short-term rental related complaints, 3-1-1 service requests, and investigation tasks into the short-term rental database, similar to what is done in other MLS enforcement areas, presents an opportunity for improved efficiency for the Division.

**Recommendation:**

- 10. City Council request the Executive Director, Municipal Licensing and Standards, to:**
  - a. Work with the Chief Technology Officer to centralize short-term rental case management to the short-term rental database; and**
  - b. Improve tracking of investigation referrals, streamline the compliance and investigation processes, and improve coordination between Enforcement and Compliance teams.**

**B. 4. Reliability and Quality of Short-Term Rental Data Should be Improved**

There are several issues with the quality of data in the various databases used for administering the Short-Term Rental Program.

**Transaction Data**

The licensed short-term rental companies are required to provide the City with monthly transaction data reports. The business intelligence team within MLS oversees the intake of the data.

However, we found that staff did not conduct validity checks (e.g., checking for missing information in the transaction data) to ensure that all transaction data is complete and accurate. Reviewing the validity of the transaction data is important as it is used to calculate nightly fee revenue and assist compliance efforts, such as the 180-night rule analysis.

We noted that licensed companies submitted incomplete transaction data. For instance, a complete transaction entry should include the number of nights, the per-night rate, and the total sale price. However, we identified transactions that provided the number of nights but omitted the total transaction price. The City uses the number of nights and the sales price as a vital source of information in ensuring compliance with the bylaw and to calculate MAT revenue and nightly fees.

In 2021, MLS hired a third-party to assess the readiness of two licensed short-term rental companies to provide accurate, secure, and complete transaction data required by the bylaw. The review found no significant issues with the two companies, as they have automated processes for data extraction and upload. However, the third-party said improvements were needed, particularly in how the licensed companies perform validity checks on operators' permits using the City's open data database. Improvements were also needed in how licensed companies removed listings and informed MLS of the removal.

However, no third-party review<sup>22</sup> of transaction data has been conducted since 2022 (when the report was released), and MLS has not established a schedule for the frequency of audits for transaction data.

Additionally, we identified two issues with data processing methods. Firstly, there were inconsistencies in how staff used transaction data to calculate nightly fees collected from short-term rental companies. Secondly, during the 180-night analysis intended for the 2023 calendar year, the data erroneously included some transactions from 2022.

**Reliable, complete, and accurate transaction data is crucial for analysis and decision-making**

Reliable, complete, and accurate transaction data is crucial for analysis and decision-making. Poor data quality can impede the effective use of data analytics to support compliance efforts.

### **Property Tax Data**

When an application for a short-term rental permit is received, the short-term rental database automatically matches the short-term rental addresses with the City's Property Information System (PIS) to create a record of the property within the short-term rental database. According to MLS staff, outdated or missing property information in PIS could lead to inaccurate property records in the short-term rental and property tax databases.

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<sup>22</sup> Our audit scope did not include the review of licensed short-term rental companies' controls or the third-party's assessment of their automated processes for extracting and uploading transaction data.



**Accurate property tax information supports compliance efforts**

We found approximately 1,600 approved permits for short-term rentals that had inaccurate or non-matching property information, such as property descriptions and addresses when the short-term rental and property tax databases are compared. For example, some records contain erroneous property descriptions, like listing short-term rental properties as being in condominium parking lots. Accurate property descriptions are essential for compliance efforts, as they provide details like property type, ownership, mailing address, and number of bedrooms.

Staff did not conduct validity checks on property tax data in the short-term rental database and did not actively use the property information to support compliance efforts. Accurate property information can help to identify violations of the principal residence rules, such as detecting multiple short-term rental properties under common ownership, which may indicate a risk of commercial activity.

**Recommendation:**

- 11. City Council request the Executive Director, Municipal Licensing and Standards, to regularly conduct validity checks to ensure that the short-term rental transaction and property information data collected is complete and accurate.**

**B. 5. Short-Term Rental Data Retention Policy Needs to be Developed**

As required by the bylaw, the licensed companies must provide MLS with monthly short-term rental transaction data. MLS receives this information in electronic form and processes it further for calculating nightly fees and other compliance purposes.

MLS could not locate some of the original 2021 transaction data files from short-term rental companies. By comparing partially available original transaction files and processed transaction data, we estimated that 70,704 transactions worth \$35 million in sales were missing from the original data.

MLS staff explained that some of the original transaction data files were misplaced once they were processed. Consequently, we could not verify the accuracy and completeness of the transaction data used for calculating nightly fees and other compliance purposes.

According to Toronto Municipal Code Chapter 217, Records (code L0361, Business Licenses and Permits), records are to be retained for a total of seven years after the licence's expiration.

MLS lacks a formal policy for data retention and record-keeping tailored to the Short-Term Rental Program. Although data retention has improved, there was initially no centralized storage process, making it difficult to locate previous files.

Original files must be retained as they provide a valuable reference and backup in case processed copies have problems with data integrity. The calculation of the MAT and the nightly fees require complete and accurate transaction data to ensure data integrity and reliable analyses.

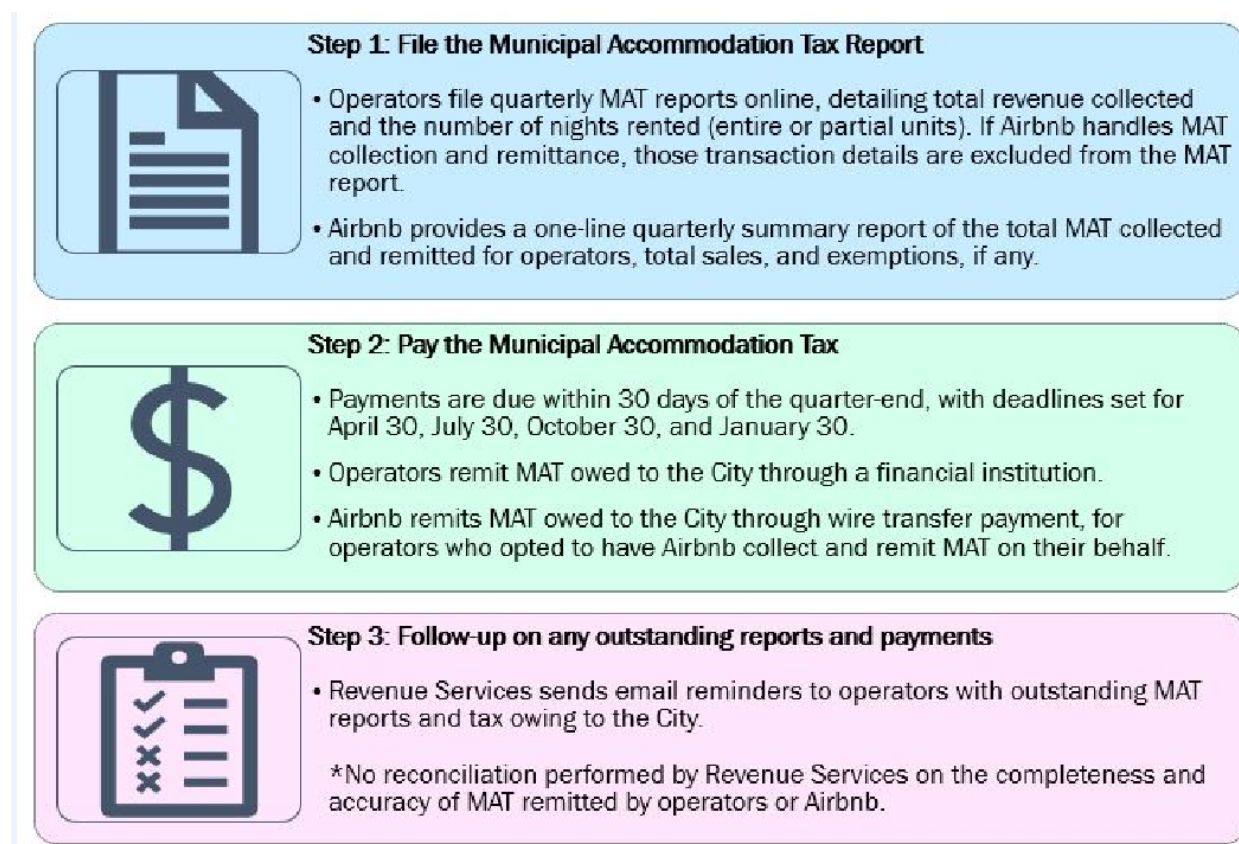
**Recommendation:**

- 12.** City Council request the Executive Director, Municipal Licensing and Standards, to develop, implement, and comply with standard procedures for file documentation and retention for the Short-Term Rental Program, aligned with the City's policy on record retention. The procedures should specify the documents to be retained and their retention length, especially for any information supporting the calculation of the Municipal Accommodation Tax and nightly fees.

### **C. Processes Should Be Enhanced to Ensure the Remittance of the Municipal Accommodation Tax Is Accurate, Complete, and Processed in a Timely Manner**

The Toronto Municipal Code, Chapter 758, mandates a six per cent MAT for short-term rentals. The tax rate was increased from four per cent, effective May 1, 2023. Operators must collect and remit this tax on every rental. They must also submit an online tax report and remit payments quarterly within 30 days of the end of each quarter. **Figure 13** outlines the MAT remittance process for short-term rental operators and Airbnb.

Figure 13: MAT Collection and Remittance Process



Short-term rental companies that have signed a Voluntary Collection Agreement with the City to collect and remit taxes on behalf of operators must follow the same reporting and payment deadlines as operators. Among the three licensed companies, only Airbnb has such an agreement with the City.

The City's Revenue Services Division receives and processes the quarterly tax reports and payments from operators and licensed companies. Staff send reminder emails to operators who have not filed reports or made payments and respond to their inquiries. Interest can also be applied to any overdue tax amounts, at a monthly rate of 1.25 per cent (or 15 per cent annually).

Failure to file quarterly reports or pay tax that is owed results in the cancellation of an operator's short-term rental permit.

## C. 1. MAT Remittance May Not Be Accurate Or Complete

Ensuring the accuracy of MAT payments is challenging as the transaction data provided by short-term rental companies does not include the necessary details for reconciliation. As a result, MAT remittances may not always be accurate or complete.

### **\$20M MAT revenue collected from short-term rental activities from 2021 to 2023**

According to **Figure 14**, the City received, as of February 29, 2024, around \$20 million in MAT related to short-term rental activities between 2021 and 2023. Of this, 92 per cent (\$18.59 million) was collected and remitted by Airbnb on behalf of operators, while the remaining eight per cent (\$1.55 million) was remitted by the operators themselves.

Of the other two licensed short-term rental companies, only Booking.com is currently active. Unlike Airbnb, the company does not have a Voluntary Collection Agreement with the City, so operators must remit the MAT themselves. The third company, Podsliving, did not have any active listings of short-term rentals at the time of our audit fieldwork.

**Figure 14: MAT Remittances (2021-2023) as of February 29, 2024**

| Source                                           | 2021    | 2022    | 2023     | Total             |
|--------------------------------------------------|---------|---------|----------|-------------------|
| MAT Remitted by Airbnb                           | \$2.47M | \$6.20M | \$9.92M  | \$18.59M<br>(92%) |
| MAT Self-remitted by Short-Term Rental operators | \$0.25M | \$0.50M | \$0.80M  | \$1.55M<br>(8%)   |
| Total                                            | \$2.72M | \$6.70M | \$10.72M | \$20.14M          |

### **Municipal Accommodation Tax Remitted by Airbnb**

The Toronto Municipal Code, Chapter 758, permits licensed short-term rental companies like Airbnb to collect and remit taxes on behalf of operators if they sign a Voluntary Collection Agreement with the City to undertake this responsibility. This arrangement is optional for both companies and operators, giving operators the option of not using short-term rental companies to handle their MAT obligations.

Allowing licensed short-term rental companies to collect the MAT benefits the City administratively. It improves compliance, simplifies tax deduction at the source, streamlines collection, reduces reliance on remittance by operators, and reduces the administrative burden on City staff.

### **Airbnb collects and remits the MAT for 90% of operators; only 10% of operators on Airbnb remit it themselves**

As mentioned earlier, currently only Airbnb has an agreement with the City, although not all operators on Airbnb utilize this option. According to 2023 transaction data, about 10 per cent of operators on Airbnb chose to directly remit the tax themselves to the City.

For the remaining 90 per cent of operators, Airbnb collects and remits the MAT on their behalf. However, Airbnb does not provide details about the transactions that make up the remitted amount. It does separately provide monthly transaction data to MLS, but this data does not correspond with the total amount of remittances for the following reasons:

- The transaction data from Airbnb shows transactions by check-in and check-out dates. MAT remittances are likely based on when Airbnb received payments, rather than guests' check-in and check-out dates.
- Guests usually pay upfront when booking, but the transaction data does not specify when Airbnb received these payments, causing differences in their timing.

Without additional transaction details accompanying remittances, reconciling, or verifying the accuracy and completeness of Airbnb's MAT remittances is challenging.

As of February 29, 2024, Airbnb had remitted \$18.59 million in MAT for transactions from 2021 to 2023. We estimated quarterly tax payable using transaction data and compared it with actual remittances to assess reasonability. Variances were noted over the three years, but due to incomplete information and timing differences, the accuracy and completeness of the remitted tax amounts could not be confirmed.

### **Municipal Accommodation Tax Remitted by Operators**

#### **Operators who remit the MAT themselves are not required to provide transaction details**

The City requires operators to file quarterly tax reports and remit the amounts owed by the due date. However, operators who remit the tax themselves are not required to provide transaction details. This results in the City relying on an honour system, expecting operators to collect and remit the correct amount of MAT.

Operators are not required to specify revenue sources from platforms such as Airbnb and Booking.com. They only have to declare a lump sum total for income and the number of nights, making it challenging for Revenue Services staff to reconcile MAT remittances with transaction data from licensed short-term rental companies to ensure accuracy and completeness.

**Recommendation:**

**13. City Council request the Director, Revenue Services, to:**

- a. Establish a quarterly reconciliation process that compares Municipal Accommodation Tax remittances with the detailed transaction data provided by licensed short-term rental companies that have also signed a Voluntary Collection Agreement with the City; and
- b. Develop procedures for sampling and comparing Municipal Accommodation Tax remittances with the detailed transaction data to be provided by the short-term rental operator upon request and/or by those licensed short-term rental companies without a Voluntary Collection Agreement with the City.

**C. 2. Controls Required to Ensure MAT Quarterly Reports Are Filed on a Timely Basis**

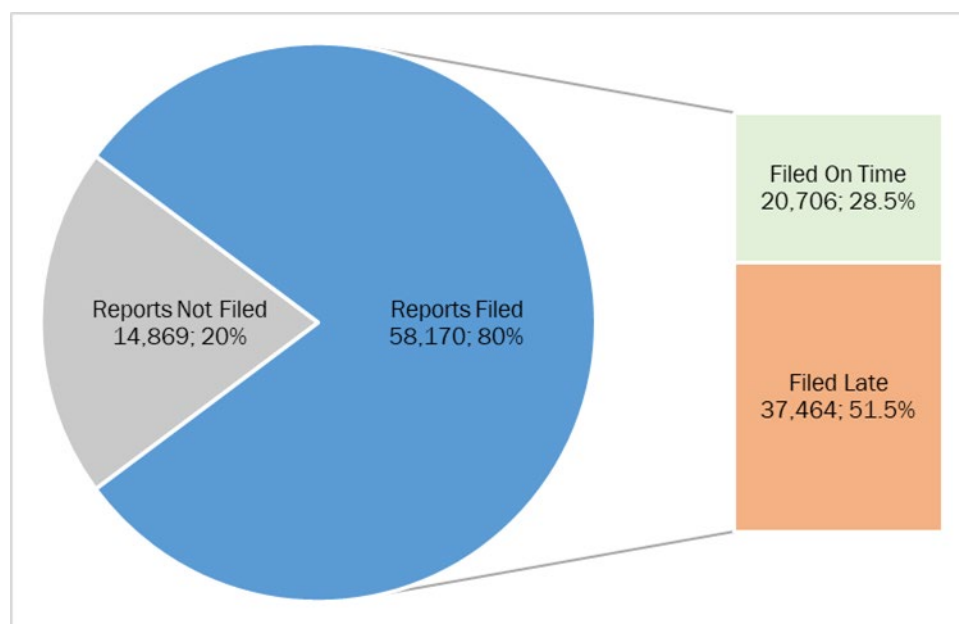
Operators must file a quarterly MAT report, outlining their short-term rental revenue from the preceding quarter and remit a six per cent MAT (up from four per cent effective May 1, 2023). Even in cases of zero revenue or when a licensed company handles MAT collection and remittance, operators must still file their MAT reports. While Airbnb handles about 92 per cent of all MAT collection and remits it as scheduled, all operators must still file their MAT reports by the due date.

Based on the number of approved operators between 2021 and 2023, we estimated that there should have been at least 73,039 quarterly filings of MAT for the period 2021 to 2023.

**Just over half of the required quarterly MAT reports were filed late**

**Figure 15** below shows that approximately 20 per cent of the required reports (14,869 out of 73,039) were not filed for 2021-2023, with one-third of these for the most recent reporting period (2023 Q4). Additionally, just over half (37,464 out of 73,039) were submitted late.

**Figure 15: Breakdown of Required Quarterly Municipal Accommodation Tax Reports (2021 to 2023)**



Of the 37,464 reports filed late, almost half (18,137 reports) were filed 1 to 30 days after the due date, 43 per cent (15,965 reports) were filed 31 to 180 days late, and nine per cent (3,362 reports) were filed over 180 days late.

Even though 92 per cent of the total MAT is collected and remitted by Airbnb, all operators must file their MAT reports on time, as they may have other sources of revenue from short-term rentals that need to be reported. Timely reporting by all operators, including those who remit MAT themselves (approximately \$1.55 million since the program's inception), helps with revenue collection and reduces administrative work for Revenue Services. Not filing the MAT report on time makes the operator non-compliant and can result in their permit being revoked.

**City does not impose any interest or fees for late payments or non-payment of MAT**

The City has not imposed any interest or fees for late payments or non-payment of MAT. Using the interest rate prescribed in the Toronto Municipal Code, Chapter 758, this amounts to approximately \$10,000 in interest foregone for the reports filed late, which the City did not seek to collect.

While operators must file MAT reports and pay MAT within 30 days of each quarter-end, their permit remains active even if payment is delayed up to 90 days after the date for the annual renewal of their permit. Permits are revoked if an operator has any outstanding MAT reports or taxes payable 90 days past their permit's renewal date. This means operators can earn revenue for over a year before their permits are revoked for not filing or remitting taxes.



**Recommendation:**

- 14.** City Council request the Director, Revenue Services, in consultation with the Executive Director, Municipal Licensing and Standards, to ensure that short-term rental operators file quarterly reports in a timely manner and consider appropriate remedial actions against non-compliant short-term rental operators, including but not limited to charging interest on late Municipal Accommodation Tax payments and/or revoking their permits.

**D. Need to Enhance Key Performance Indicators and Targets to Evaluate Program Effectiveness and Efficiency**

The October 2017 staff report to City Council stated that the goals of the Licensing and Registration of Short-Term Rentals Bylaw are to:

- Allow people to rent their homes for short periods;
- Minimize negative impacts on housing affordability and availability;
- Enable greater diversity in tourism accommodations;
- Maintain community stability, including in vertical communities;
- Minimize nuisances; and
- Create regulations that are fair and easy for people and companies to follow.

**Key performance indicators and targets need to be established to evaluate the achievement of program goals**

Appropriate, relevant, and quantifiable key performance indicators (KPIs) are necessary to assess the effectiveness and efficiency of the program, particularly relating to:

- Achieving program goals as outlined in the regulation;
- Identifying non-compliance; and
- Measuring external and internal response times.

Implementing KPIs with meaningful targets is essential for guiding the City's efforts to regulate the short-term rental market, as well as providing accountability for the program.

We found that in 2021, MLS used to have a service level target of five days for processing short-term rental applications. However, management told us that it discontinued this KPI due to the increase in the volume of registrations and the complexity of files, which required more manual intervention in the application process.

While MLS no longer has a service level target for processing short-term rental applications, the website for the Short-Term Rental Program says, as stated below, that it could take more than 90 days to process an application depending on the volume and complexity:

*“The City aims to process your application as soon as possible, however the City experiences a higher than normal volume of applications at times. While some applications are processed and approved automatically, others may require additional review and/or an inspection of the property prior to approval, which may lead to delays in processing your application. Depending on the volume of applications, processing time may exceed 90 days following submission of applications.”*

Currently, MLS has an operational KPI of five days for the initial response to short-term rental service requests and complaints. According to MLS’ KPI statistics for the period from September 2022 to December 2023, 94 per cent of short-term rental service requests were responded to within five days.

In addition, MLS has prepared the following reports and dashboards on registration, complaints, and enforcement data (as shown in **Figure 16**). However, the information mainly focused on the outputs, not the results and outcomes, of program activities, and there are no established targets for comparison, other than the initial response time for service requests previously mentioned.

**Figure 16: Current MLS Reports and Dashboard for Tracking Program Data**

| Report Name                             | Description                                                                                                                                                                                                                                                    |
|-----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Annual Program Summary Report           | <ul style="list-style-type: none"> <li>Provides registration, complaints, and enforcement data, detailing the number of applications and their status by year, complaints by year and month, and charges issued by offence type and year.</li> </ul>           |
| Short-Term Rental Operations Dashboard  | <ul style="list-style-type: none"> <li>Tracks the status of permit applications (received, approved, under review, denied), revocations or cancellations, approvals by ward, and applicant type.</li> </ul>                                                    |
| City’s Public Short-Term Rental Website | <ul style="list-style-type: none"> <li>Provides registration data and details on short-term rental enforcement activities, including the number of complaints received, open service requests, and charges submitted to and resolved by the courts.</li> </ul> |

Source: MLS

**Recommendation:**

- 15. City Council request the Executive Director, Municipal Licensing and Standards, to develop and implement key performance indicators and targets for periodically evaluating the effectiveness and efficiency of the Short-Term Rental Program.**

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## Conclusion

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The City of Toronto is in its fourth year of regulating short-term rentals and has gradually improved the compliance and enforcement of the program. However, challenges persist due to ongoing non-compliance and difficulties in enforcement, compounded by limited resources, limited use of data analytics techniques and highly manual, labour-intensive internal processes. It is essential to implement efficient and effective solutions for monitoring the adherence of short-term rental operators to the regulations to ensure the goals of the bylaw are being achieved as intended.

For our first and second objectives of our audit, we noted challenges and gaps in the way that MLS enforced the bylaw, especially regarding the principal residence requirements. City Council recently adopted amendments to the bylaw, aiming to address some of the enforcement challenges. Our recommendations are aimed at further strengthening the enforcement of the bylaw by implementing a framework for proactive risk-based enforcement that integrates risk factors, advanced data analytics and sampling techniques to identify non-compliance. Streamlining registration, implementing an Application Programming Interface solution, and establishing a centralized case management system will also improve the efficiencies of MLS' internal processes and enhance bylaw compliance.

For the third objective, we found that MAT remittances may not always be accurate or complete and were not being processed by Revenue Services in a timely manner in cases where operators remitted MAT themselves and filed reports late. Furthermore, ensuring the accuracy of MAT payments is challenging as the transaction data provided by short-term rental companies does not include the necessary details for reconciliation. Additional controls are needed to ensure timely MAT reports and improve revenue collection from operators who remit MAT themselves.

Finally, implementing KPIs with meaningful targets is essential to demonstrate program effectiveness and efficiency and to identify areas for continuous improvement. This information will help guide the City's efforts to regulate the short-term rental market, as well as providing accountability for the program.

### **15 recommendations to improve the Short-Term Rental Program**

Implementing the 15 recommendations contained in this report will further improve the effectiveness and efficiency of the Short-Term Rental Program and the collection of MAT revenue.

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## Audit Objectives, Scope, and Methodology

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### **Audit included in the 2024 Work Plan**

The Auditor General's 2024 Work Plan included a review of the City's policies and procedures to ensure that short-term rental operators and licensed companies comply with the bylaws and remit the Municipal Accommodation Tax on short-term rentals.

### **Audit objectives**

The objective of this audit was to assess whether short-term rentals are effectively and efficiently regulated and enforced; and that the Municipal Accommodation Tax (MAT) remitted is accurate, complete, and processed in a timely manner, in order to meet the intended goals of the Licensing and Registration of Short-Term Rentals Bylaw. In assessing this objective, our audit aimed to answer the following questions:

- 1) Are there opportunities to strengthen the Licensing and Registration of Short-Term Rentals Bylaw and regulations to help achieve its intended goals and objectives?
- 2) Is Municipal Licensing and Standards effectively and efficiently enforcing the Licensing and Registration of Short-Term Rentals Bylaw?
- 3) Is the remittance of the Municipal Accommodation Tax from short-term rentals accurate, complete, and processed by Revenue Services in a timely manner?

### **Audit scope**

The audit examined short-term rental activities, transactions, and Municipal Accommodation Tax related to applications received and registrations approved from the program's inception on August 31, 2020 to February 29, 2024. Registration status was assessed based on a cut-off date of February 29, 2024.

### **Scope Limitations**

Our data analysis relied on information from the MLS registration system, transaction datasets, the City's property tax system, and the MAT filing system. However, we encountered data quality issues, as discussed in **Section B.4.**, which limited our ability to verify the accuracy and completeness of the data.

For example, our analysis of potential bylaw violations is hampered by data errors and pirated transactions in the transaction data provided by licensed short-term rental companies. 'Pirated transactions' or 'pirated listings' refer to transactions or listings where an operator used someone else's registration number for advertising or conducting short-term rental activity. The presence of these pirated transactions may have reduced the number of bylaw violations identified in this report. Additionally, we had to rely on online research to identify unregistered operators. Confirming violations would require investigations by MLS staff, which falls outside our audit scope.

Our estimate of the revenue lost from potentially unregistered operators was our best estimate based on the past transaction data of a typical operator.

Our audit scope did not include the review of licensed short-term rental companies' controls or the third-party's assessment of their automated processes for extracting and uploading transaction data.

## Methodology

Our audit methodology included the following:

- Reviewing City bylaws, legislation, and regulations.
- Examining best practices and standards from other jurisdictions.
- Analyzing budget information, Council decisions, staff reports, and internal and external reviews related to the Short-Term Rental Program.
- Evaluating operational policies, procedures, and reports from MLS and Revenue Services.
- Conducting data analysis using MLS registration, property tax, and MAT filing data, and short-term rental transaction data from licensed companies.
- Interviewing staff from various divisions and sections, including the compliance, enforcement, and system support teams at MLS, as well as Revenue Services' MAT operation and finance teams.
- Interviewing staff at licensed short-term rental companies.
- Surveying condominiums with the highest number of short-term rental permits and inquiring with the condominium management.

- Identifying non-compliant short-term rental operators, pirated listings, and non-compliant advertisements online.
- Performing other relevant procedures as necessary.

**Compliance with generally accepted government auditing standards**

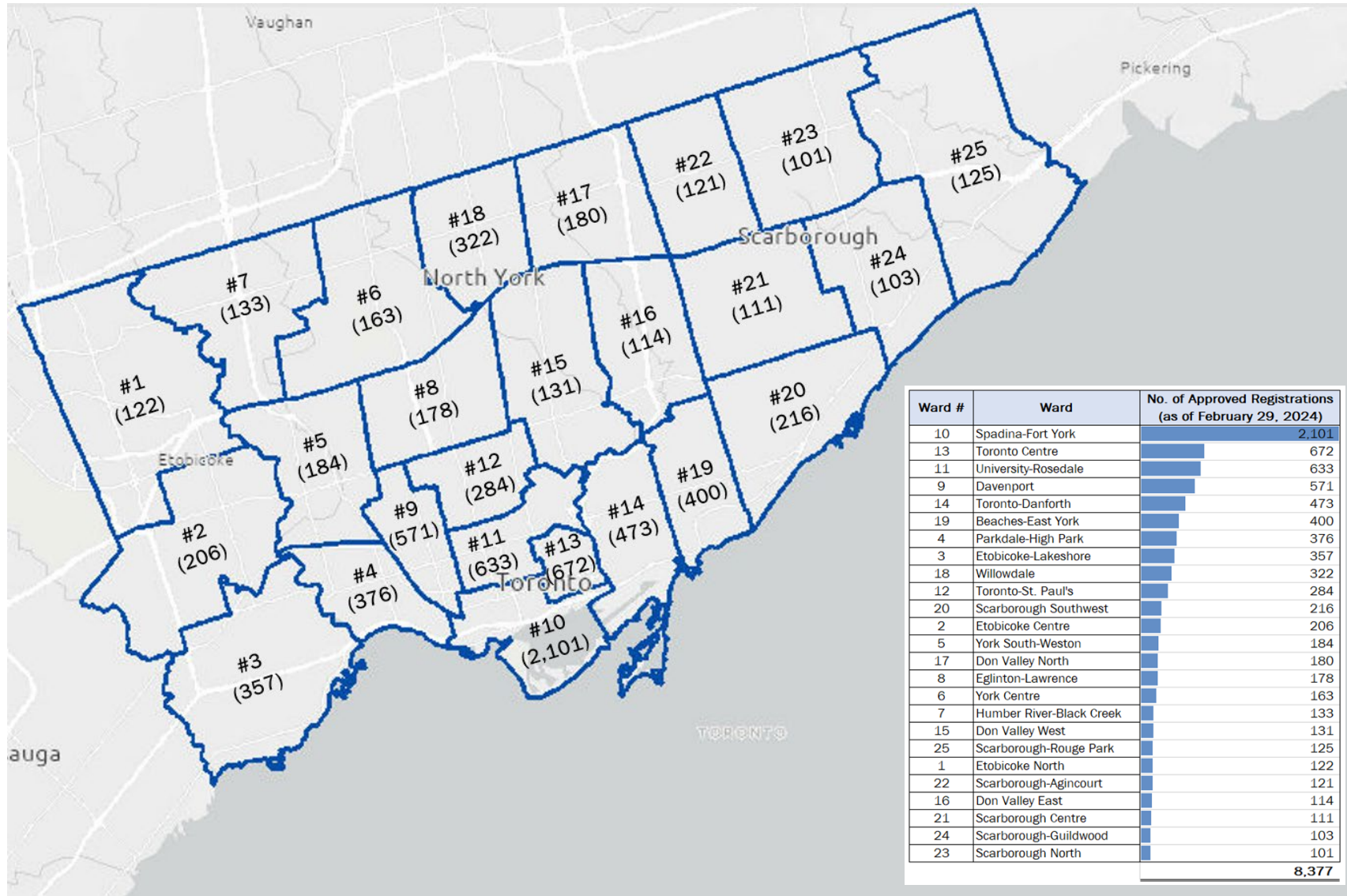
We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



**Exhibit 1: Timeline for Implementation of the Short-Term Rental Program and Bylaw**



**Exhibit 2: Geographic Distribution by Ward of Short-Term Rental Registrations, as of February 29, 2024**



## Appendix 1: Management's Response to the Auditor General's Report Entitled: "Audit of Short-Term Rental Program and Municipal Accommodation Tax: Strengthening Bylaw Enforcement and Enhancing Municipal Accommodation Tax Collection Processes"

**Recommendation 1:** City Council request the Executive Director, Municipal Licensing and Standards, to expand the use of data analytics to reduce non-compliant short-term rentals and enforce compliance with the bylaw.

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| Management Response: <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree                                                                                                                                                                                                                                                                                                                                               |
| Comments/Action Plan/Time Frame:<br><br>This is being done by staff with the support of a 3rd party data discovery vendor. The MLS staff report, Short-Term Rental By-Law Implementation Update approved by Council at its meeting of April 17 and 18, 2024 approved additional implementation resources. The addition of new staff in the compliance and enforcement teams will further facilitate/expand this work. Time Frame – End of 2024 |

**Recommendation 2:** City Council request the Executive Director, Municipal Licensing and Standards, to develop and implement effective risk indicators to identify non-compliant short-term rental operators who use property managers to operate a commercial short-term rental.

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| Management Response: <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Comments/Action Plan/Time Frame:<br><br>The MLS staff report, Short-Term Rental By-Law Implementation Update, approved by Council at its meeting of April 17 and 18, 2024 secured additional implementation resources. Staff agree that, with the addition of the new resources, there is an opportunity to move towards a comprehensive, proactive and risk-based compliance and enforcement framework which will be used as an internal tool for investigative purposes. This recommendation will be addressed as part of the enforcement and compliance framework by the end of Q1 2025. |

**Recommendation 3:** City Council request the Executive Director, Municipal Licensing and Standards, to:

- a. Complete the implementation of an Application Programming Interface solution allowing licensed short-term rental companies to verify the registration information of short-term rental operators and minimize the number of non-compliant listings; and
- b. Hold licensed short-term rental companies accountable for identifying and removing non-compliant listings.

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| Management Response: <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree                                                                                                                                                                                                                                                                                                                                                                  |
| Comments/Action Plan/Time Frame:<br><br>MLS staff report, Short-Term Rental By-Law Implementation Update approved by Council at its meeting of April 17 and 18, 2024 has considered this aspect. To bolster compliance, Municipal Licensing and Standards is working with Technology Services to undertake the development of an Application Programming Interface (API). Technology Services anticipates that the API will be implemented by the end of Q4 2025. |

The recommendation for the development of an API will significantly enhance the verification process currently done by the STR companies and reduce the number of takedown requests when discrepancies are identified. While this tool is under development, staff will continue to work with the STR companies to implement robust controls. MLS will be sending external auditors (in 2025 after API implementation) to verify platforms processes and that the API is being used as designed (i.e. automatically remove non-compliant listings).

**Recommendation 4:** City Council request the Executive Director, Municipal Licensing and Standards, to develop a process for proactively identifying and addressing illegally short-term rentals advertising online and unlicensed short-term rental companies.

**Management Response:** ☒ Agree ☐ Disagree

**Comments/Action Plan/Time Frame:**

The MLS staff report, Short-Term Rental By-Law Implementation Update, approved by Council at its meeting of April 17 and 18, 2024 secured additional implementation resources. Staff currently respond to complaints about illegal operators and with the addition of resources MLS will have the capacity to investigate illegal operators and address this illegal activity. Timeline – End of 2024.

**Recommendation 5:** City Council request the Executive Director, Municipal Licensing and Standards, in consultation with the Legal Services Division, to clarify the roles and responsibilities of all involved parties regarding landlord-tenant matters and consider adopting risk-based sampling procedures for verifying landlord consent for short-term rental registrations.

**Management Response:** ☒ Agree ☐ Disagree

**Comments/Action Plan/Time Frame:**

Staff will consult with Legal Services and consider existing resources that address this issue, including the website, application portal and the STR Good Operator Guide. Staff will also consider the feasibility of risk-based sampling procedures as part of the comprehensive, proactive, and risk-based compliance and enforcement framework. Timeline – End of 2024.

**Recommendation 6:** City Council request the Executive Director, Municipal Licensing and Standards, to implement risk-based sampling procedures to proactively verify that the short-term rental operators are permitted by their condominium bylaws to engage in short-term rentals of their principal residence.

**Management Response:** ☒ Agree ☐ Disagree

**Comments/Action Plan/Time Frame:**

Current website materials all contain information on the importance of checking in advance as to whether short term rentals are permitted. Staff will develop risk-based sampling procedures to verify that the short-term rental operators are permitted by their condominium bylaws to engage in short-term rentals at their principal residence. Timeline – End of 2024.

**Recommendation 7:** City Council request the Executive Director, Municipal Licensing and Standards, to develop a comprehensive, proactive, and risk-based framework for compliance and enforcement to assist staff in enforcing the bylaw.

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| <b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Comments/Action Plan/Time Frame:</b><br><br>The MLS staff report, Short-Term Rental By-Law Implementation Update, approved by Council at its meeting of April 17 and 18, 2024 secured additional implementation resources. Staff agree that, with the addition of the new resources, there is an opportunity to move towards a comprehensive, proactive, and risk-based compliance and enforcement framework which will be used as an internal tool for investigative purposes. Timeline – End of Q1 of 2025. |

**Recommendation 8:** City Council request the Executive Director, Municipal Licensing and Standards to develop service level targets for processing applications and renewals; and create system reports to monitor if the service level targets are met.

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| <b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree                                                                                                                                                                                                                                                                                                                                            |
| <b>Comments/Action Plan/Time Frame:</b><br><br>The MLS staff report, Short-Term Rental By-Law Implementation Update, approved by Council at its meeting of April 17 and 18, 2024 approved additional implementation resources. As new resources are secured, new and updated service levels will be created which address enhanced bylaw registration requirements including applicant interviews, and annual site visits. Timeline – End of 2024. |

**Recommendation 9:** City Council request the Executive Director, Municipal Licensing and Standards, to triage the emails in the short-term rentals mailbox and ensure information provided by applicants about their application is reviewed on a timely basis; or consider an alternate automated method to improve the efficiency and effectiveness of processing information.

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| <b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree                                                                                                                                                                                                                                                                                                                                          |
| <b>Comments/Action Plan/Time Frame:</b><br><br>The MLS staff report, Short-Term Rental By-Law Implementation Update, approved by Council at its meeting of April 17 and 18, 2024 approved additional implementation resources which will support the timely management of emails and our overall responsiveness to the customers. MLS is committed to explore alternative methods to improve the customer experience. Timeline – End of Q1 2025. |

**Recommendation 10:** City Council request the Executive Director, Municipal Licensing and Standards, to:

- a. Work with the Chief Technology Officer to centralize short-term rental case management to the short-term rental database; and
- b. Improve tracking of investigation referrals, streamline the compliance and investigation processes, and improve coordination between Enforcement and Compliance teams.

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| <b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Comments/Action Plan/Time Frame:</b><br><br><p>MLS is working with TSD on roadmap and requirements for consolidation of MLS systems into a modern integrated case management system. The roadmap and requirements for consolidation of MLS' systems that are used by the short-term rental team are already considered and in scope as part of the program. Modernization and consolidation of MLS' systems will assist in streamlining, tracking, and coordinating STR information between the Compliance and Enforcement teams. The work is underway and is designed to be completed in phases. Phase 1 of the system modernization will be implemented in 2026.</p> <p>As part of MLS's current efforts to improve compliance and enforcement of Short-Term Rental Program, staff will continue to review the Short-Term Rental program and will be focusing efforts on establishing the required processes which will better support both the compliance and enforcement teams and address any gaps that exist in the current structure. Timeline – End of Q1 of 2025.</p> |

**Recommendation 11:** City Council request the Executive Director, Municipal Licensing and Standards, to regularly conduct validity checks to ensure that the short-term rental transaction and property information data collected is complete and accurate.

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| <b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree                                                                                                                                                                                                                                                                                                                                                    |
| <b>Comments/Action Plan/Time Frame:</b><br><br><p>MLS will request that its external auditor review the third-party transaction data processes in 2024. The MLS staff report, Short-Term Rental By-Law Implementation Update, approved by Council at its meeting of April 17 and 18, 2024 outlined plans for implementation of an API and this will also assist with the implementation of improved data validation processes. Timeline – End of 2025.</p> |

**Recommendation 12:** City Council request the Executive Director, Municipal Licensing and Standards, to develop, implement, and comply with standard procedures for file documentation and retention for the Short-Term Rental Program, aligned with the City's policy on record retention. The procedures should specify the documents to be retained and their retention length, especially for any information supporting the calculation of the Municipal Accommodation Tax and nightly fees.

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| <b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree                      |
| <b>Comments/Action Plan/Time Frame:</b><br><br><p>MLS has begun this work which will be completed by the end of Q4 2024.</p> |

**Recommendation 13:** City Council request the Director, Revenue Services, to:

- a. Establish a quarterly reconciliation process that compares Municipal Accommodation Tax remittances with the detailed transaction data provided by licensed short-term rental companies that have also signed a Voluntary Collection Agreement with the City; and
- b. Develop procedures for sampling and comparing Municipal Accommodation Tax remittances with the detailed transaction data to be provided by the short-term rental operator upon request and/or by those licensed short-term rental companies without a Voluntary Collection Agreement with the City.

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| <b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Comments/Action Plan/Time Frame:</b><br><br>Revenue Services will revisit discussions with Airbnb to determine feasibility of remitting tax amounts that can be tied back to the DSA data submitted. Currently, Airbnb remits the tax based on collection date rather than the reporting period. Revenue Services will implement a reconciliation process for short-term rental companies that have a signed Voluntary Collection Agreement with the City by Q1 2025.<br><br>Revenue Services will establish internal processes and timelines to audit a sample of individual short-term rental operators on an annual basis starting in Q1 2025. Revenue Services will need to prepare audit notices, list of required supporting documentation such as the detailed transaction data, internal tracking system, etc. |

**Recommendation 14:** City Council request the Director, Revenue Services, in consultation with the Executive Director, Municipal Licensing and Standards, to ensure that short-term rental operators file quarterly reports in a timely manner and consider appropriate remedial actions against non-compliant short-term rental operators, including but not limited to charging interest on late Municipal Accommodation Tax payments and/or revoking their permits.

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| <b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Comments/Action Plan/Time Frame:</b><br><br>Revenue Services will send a reminder email to all short-term rental operators the first business day after quarter end to remind them to submit their Municipal Accommodation Tax report and payment before the due date. This new feature will take 8-12 months to implement by Q2 2025.<br><br>Revenue Services will conduct a cost benefit analysis with respect to charging interest. If the results of the study support charging interest, changes to online portal and operating system will be required. Also, Revenue Services will need to work with Communications to implement a communication strategy to advise short-term rental operators of the upcoming changes. Aiming for end of 2025 for implementation. |

**Recommendation 15:** City Council request the Executive Director, Municipal Licensing and Standards, to develop and implement key performance indicators and targets for periodically evaluating the effectiveness and efficiency of the Short-Term Rental Program.

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| <b>Management Response:</b> <input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree                                                                                                                                                                                                                                                                                              |
| <b>Comments/Action Plan/Time Frame:</b><br><br>MLS will continue to refine its approach for tracking key performance indicators across all aspects of the program as part of its existing program dashboard. Targets will be reviewed and added as required, and particularly as service levels are expected to improve with the addition of more resources to the program by the end of Q1 of 2025. |

**AUDITOR  
GENERAL**  

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**TORONTO**