



December 5, 2022

Mayor's Office of Special Enforcement
Christian Klossner, Executive Director
22 Reade Street, 4th Floor
New York, NY 10007
oserules@cityhall.nyc.gov

Re: Public Comment on Proposed Short-Term Rental Rules

Dear Mr. Klossner:

On behalf of the Travel Technology Association, I submit the following comments concerning the Mayor's Office of Special Enforcement's Proposed Rules regarding short-term rentals in New York City. Travel Tech advocates for public policy that promotes market transparency and competition to encourage innovation and preserve consumer choice. We represent the leading innovators in travel technology, including global distribution systems, online travel agencies and metasearch companies, travel management companies, and short-term rental platforms.

Collaboration Between the City and Short-Term Rental Platforms Benefits All New Yorkers

We respectfully urge the Office of Special Enforcement to collaborate with short-term rental platforms and hosts to develop rules related to short-term rentals. Our platform members have been cooperating with local governments worldwide to address community objectives. They have organized innovative and effective solutions to satisfy the requirements of local laws while minimizing harm to short-term rental hosts and guests and benefitting local communities.

Platforms and Hosts Need Clarification on the Proposed Electronic Verification System

The Proposed Rules aim to have short-term rental platforms verify four items of information for each rental listing by hosts to share their homes with their guests: 1) the street address of the short-term rental, 2) the host's full legal name, 3) the registration number associated with the short-term rental, and 4) the uniform resource locator or listing identifier for the short-term rental. As written, the Proposed Rules suggest that the verification system will fail to confirm that a short-term rental is registered if there is any discrepancy whatsoever in the information that the platform submits and that which your Office has on file—even immaterial differences. The Proposed Rules also provide no way for platforms or hosts to check for near-matches or identify and correct errors in the information stored in your Office's system. The electronic verification system, by its very design, will fail to properly verify many listings that hosts may have, in fact, registered with your Office, and thus impose unnecessary cost and burden on platform members and harm New Yorkers.

Furthermore, the Proposed Rules need to account for the inability of some platforms to provide a uniform resource locator or listing identifier prior to registration with your Office to prevent hosts from creating unregistered listings. This results in a circular dilemma whereby hosts cannot register with your Office because they do not have a listing identifier, and platforms cannot allow hosts to create a listing because they are not registered. To avoid this situation, we urge the city to modify the rules to allow applicants to include “listing identifier pending” and “uniform resource locator pending” in the short-term rental license application. Once granted, hosts can be required to update the license record with the “listing identifier” and uniform resource locator once they complete the listing with the hosting platform. Removal of this requirement would improve the registration experience for hosts and platforms without compromising the validity of registrations (given the many additional information verification sources).

Registration Expiration Date Verification is Overly Cumbersome

The Proposed Rules would have platforms revalidate licenses within two days of the expiration date—a process that would require manual tracking and validation around expiration dates. This is overly burdensome for platforms.

The Proposed Rules Are Inconsistent with Federal Law and Infringe on Our Members’ Rights

The Proposed Rules are inconsistent with the federal Communications Decency Act, which immunizes computer service providers, like our platform members, from liability for their role as “publishers” of posts by third parties, like short-term rental hosts.

The detailed monthly reporting requirements in the Proposed Rules would violate our members’ rights under the U.S. and New York constitutions to be free from unreasonable searches and seizures.

The Proposed Rules are Unduly Burdensome for Platforms

The Proposed Rules impose unjustified costs on our platform members. The \$2.40 per listing fee to use the electronic verification system unfairly requires our members to pay to verify listings that will never result in a revenue-generating booking, either because the verification fails or because the hosts will subsequently choose not to complete any bookings within the calendar year. And the intended fees for even a single unintentional violation of the Proposed Rules are excessive to the point of being punitive. Furthermore, platforms that choose not to offer short-term rental booking services in the city are now required to construct costly systems and labor-intensive processes merely to enforce the city’s rules (*i.e.*, not in the ordinary course of their business).

Short-Term Rentals are an Important Element of New York City’s Tourism Economy

Our members proudly offer platforms that allow travelers to book lodging options across all boroughs of New York City, including in neighborhoods that do not have hotels. As the City’s economy continues to recover from the pandemic, travelers who stay in short-term rentals generate significant economic benefits for the New Yorkers who host them, the local businesses they patronize, and the cleaning and maintenance workers who help to maintain the rentals. Without short-term rental options, some of these travelers may not want to or be able to visit New York City. According to one poll we conducted, nearly 75% of travelers indicate that

short-term rentals provide a valuable alternative to other lodging options when considering travel priorities such as trip cost and health and safety precautions.¹

The Current Timeline for Compliance is Unfeasible

Our industry is concerned with the Proposed Rules' intent to begin enforcing penalties for non-compliance with their provisions as of May 9, 2023. Platforms must develop new technology and implement new processes to comply with the Proposed Rules. Your Office has not yet provided technical specifications for its contemplated electronic verification system to allow platforms to develop their own technology. If your Office moves forward with these Proposed Rules, the May 2023 compliance timeline is unworkable, and we urge that this date be extended (and connected to the date when your Office's specifications are set, with appropriate lead time).

Given the substantial practical, economic and legal concerns outlined above, I, along with the Association's members, encourage you to work with our members directly to identify a way forward that works for New Yorkers, travelers, and third-party booking platforms.

Sincerely,



Laura Chadwick
President and Chief Executive Officer
lchadwick@traveltech.org
703-842-3754

¹ <https://www.traveltech.org/looking-forward-consumer-preferences-for-travel-in-2021/>