

I am an Airbnb host and have read the comments from Airbnb regarding Registration of Short-Term Rentals and agree with their comments. I am opposed to these rules and have included my comments on why I believe them to be problematic below. For the most part, my comments are not duplicative to those of Airbnb.

The most recent NYC election saw the passage of Ballot Proposal 2. This preamble would serve as a guiding principle for city government to promote justice and equity for all New Yorkers. These rules as detailed by the Office of Special Enforcement (OSE) are antithetical to everything the preamble was designed to achieve.

The work of the OSE does not “recognize historical injustices, embrace the city’s diversity, recognize what residents need to thrive, and establish values grounded in equity and justice that shape our city.” It in fact, does the exact opposite and will lead to the further disenfranchisement, decreased access to capital, and less overall wealth in marginalized communities. Rules executed as reported will likely further erode the diversity of The City.

I have no knowledge as to why these rules were created as they were. The complexity and burden of these rules seems to deliberately create an environment of intimidation. Such tactics have been used in the past against marginalized communities and have created much of the systemic discrimination that we face today. This is akin to poll taxes, literacy tests and the like after the passage of the 15th amendment designed to keep Black Americans from voting. A discussion of redlining is also appropriate here.

It is unreasonable to assume that anyone could, without the advice of counsel, accurately “certify that they understand and agree to comply with applicable provisions of the zoning resolution, multiple dwelling law, housing maintenance code, New York city construction codes and other laws and rules relating to the short-term rental of dwelling units...” Much of this house maintenance code remains unchanged while the OSE interpretation and enforcement of these same codes has dramatically changed since 2015.

By his own admission at the at the September 13, 2021 hearing, the Executive Director of the Office of Special Enforcement shared that the only since 2015 has the vast majority of the work of his office been related to short-term rentals. In 2006, the Mayoral Executive Order that led to the creation of this office was not focused on short-term rentals neither did Housing Preservation and Development make short-term rentals central to their work during those years. The point here is not that short-term rental is not worthy of study or investigation or even fair rules. Rather, the issue is the variability of the interpretation and enforcement of codes and associated rules that did not have short-term rentals in mind when drafted so many years ago. This now puts each person who certifies at risk. Low-income users of short-term rental platforms who believe they are abiding by the rules, as they understand them, are less likely to seek legal advice and more likely to incur an economic risk from the numerous fines detailed in this proposal.

This would not be the first time that short-term rental hosts have suffered economically from the changing interpretation and enforcement by the OSE. I believe it was early January 2017

when I gave my full name and address to be permitted to testify at an OSE rules hearing. By the end of the hearing, we were promised that the outcome would be shared by the end of the February. I wanted to get my hands on that guidance because I had every intention of being compliant. When I didn't hear from the office by the last week of February, I called. Clearly, I was naïve. I left my name and number expecting a return call. No one ever called. On March 15th, OSE sent four officers to my door. Even without letting them in, they issued several summons that resulted in fines.

Publicly detailing what precisely is legal and what is not legal was not a priority of OSE. Legislators that testified that day, all requested that OSE start a public relations campaign to inform hosts that their activity was illegal. Despite receiving a funding allocation in excess of \$2 million, they did no such campaign. It took more than a year for The City website to be updated. In the interim, I have spoken to numerous hosts who erroneously thought they were acting within the bounds of what is legal. I've referred them to attorneys who can better explain the nuances of the code and help them to stop the financial bleeding. Almost without fail, these unwitting hosts were found guilty and fined excessively by The City.

The negative outcome of sharing my personal information in the hopes of getting fair short-term rules highlights another issue of this ruling. The vast amounts of information required to receive an approved registration is burdensome. In addition, the heavy requirement for data infringes on the right of privacy. The requirement alone is a direct deterrent for participation of marginalized groups. There is a lack of trust that the information will be used responsibly despite whatever this government office claims.

For historically marginalized groups, the right to privacy is a matter of survival. Privacy violations have put these groups at risk of ostracization, discrimination, or even active physical danger. These tensions have long pre-dated the digital age. In the 1950s and 1960s, the government used surveillance programs to target Black Americans fighting against structural racism...

<https://www.brookings.edu/blog/techtank/2022/07/18/examining-the-intersection-of-data-privacy-and-civil-rights/>

As one who continues to speak up and shared my personal information in the pursuit of fair rules, I cannot in good faith tell anyone that I believe in the privacy and safety of their data shared through this method. I cannot say definitively that my multiple testimonies and news interviews led the OSE to my doorstep. Nor can I say that my fight for equity and justice did not.

These rules will stop many from exploring this option of using their housing resources to improve their economic situation. Those most impacted by this are some of the most fragile in the community. As a host leader, I have met many hosts who are in marginalized groups using short-term rental to make ends meet, bridge the gap and increase their wealth.

A city with promoting justice and equity as a guiding principle would need to look at the intersectionality of the compounding disparities and how these rules increase them and increase community harm rather than mitigate injustice. The COVID-19 Pandemic has seemed to bring these issues forward for many, including those in many offices in The City. Yet it seems to be in a buried footnote here. Treating small landlords and individual tenants as if they have colluded to remove affordable housing from The City only piles excessive burdens on those who are attempting to simply live their version of the American dream. For instance, the NYC Comptroller detailed the pay gap between Black women and everyone else in reports in 2016 and 2018. There are large numbers of Black women across the education and income spectrum using their homes to help fill the gap of their financial disparity. These rules would stop this practice.

On September 13, 2021, the Executive Director of OSE said that “the goal of the administration is to preserve affordability and community livability, to prevent harassment and displacement of permanent residents, and to increase access to permanent housing.” Unfortunately, many of us feel harassed and assaulted by these rules. Some of us feel that our personal affordability and community livability is put at greater risk by the application of these rules.

Some have dropped out of the fight for fair short-term rules because of the sense of increasing harm, harassment and assault that this fight for justice and equity brings.

An example of this is a story I have told on numerous occasions. It happened on the ides of March when an OSE officer came to my door and was denied access. Before he left my steps, he told me that he had other ways of entering my apartment. To me, the words felt like an attempt to intimidate. When I shared this story with another host of color, she had the same experience when they showed up at her door. I was annoyed by his remarks. I was more disturbed that the administrative judge didn't want to hear anything about it. The fact that the Executive Director of OSE simply dismissed the comments offered no comfort either.

In case it is not clear, I think these rules do not support justice and equity in NYC. If enacted as written, they will be yet be another brick in the structural systems that ignore the needs and desires of marginalized communities and make it increasingly difficult to fully participate equitably in our society.

Every time we have a chance to get ahead, they move the finish line.

Janelle Monae as Mary Jackson in Hidden Figures

Joy Williams