

To: City Council, Dr. Tarron Richardson, Mike Murphy, Leslie
Beauregard
From: Todd Divers
Subject: AirBnB / Alexandria / Blacksburg
Date: May 21, 2019
CC: John Blair, Jason Vandever, Kyna Thomas, Maxicelia
Robinson, Brian Wheeler, Betty Graham



COMMISSIONER
OF THE
REVENUE

Madame Mayor, Members of Council, Dr. Richardson:

As evidenced by the comments of a speaker at the last City Council meeting and by some of the responses from Council, there appears to be a misperception that there is a proliferation of untaxed HomeStays in the City. Further, lodging tax collections agreements signed by the Cities of Alexandria and Blacksburg with the online hosting platform AirBnB keep circulating locally as possible models for consideration in Charlottesville. I have addressed these issues a number of times in correspondence to Council and the City Manager's Office; but for the benefit of our new City Manager, I would like to take this opportunity to go over it again in a more public forum.

First, for those questioning the efficacy of our efforts when it comes to discovering and taxing HomeStay activity in the City... rest assured that we are doing a VERY good job of it. My office has already taxed and licensed HomeStays to the tune of over a million dollars in Transient Occupancy Tax (TOT) since we created a separate license category only a few years ago (over \$360K in CY2018 alone). I would venture that we do a better job of realizing tax revenue from these entities than virtually any other locality in the state.

Do we capture every single instance of AirBnB activity that takes place in Charlottesville? Of course not, and the same can be said of any industry. But when one takes into account that many host's AirBnB activity in this City is of a once or twice a year nature, and therefore de minimis by taxation standards, we are doing a FANTASTIC job of capturing the tax revenue stemming from ongoing and repeat activity. If you think your neighbor is running an untaxed AirBnB, we'd love to hear about it (especially if you feel further compelled to complain about it in a public forum). However, chances are we already have them in our system.

Second, I'd like to address the supposed "difficulty" in accessing the City's rules and regulations related to HomeStay activity and what was referred to as the "bureaucratic" nature of those requirements.

I would simply offer that we have tried to keep the process as simple as possible, or as simple as we can given the particulars of the zoning ordinance that was passed by Council a few years ago, and the overarching desire to maintain fairness and equity among all classes of taxpayers. All of the City's HomeStay requirements are readily available in a conspicuous link at the top of our webpage (a page that I maintain myself). When we discover a new operator, we go to great lengths to make sure they understand what is necessary. State and City Code require all entities who regularly offer such temporary, overnight accommodations to file and pay transient occupancy tax and maintain auditable records associated with such business activity. We have an online filing and payment system that many taxpayers use and seem to appreciate. Really, the only part of the process that is different from operating any other business in the City is the requirement to annually re-file a one-page HomeStay permit with Neighborhood Development Services and pay the annual \$100 fee (which I agree is onerous and should be done away with).

With respect to Alexandria and Blacksburg...

189 jurisdictions (37 cities, 75 counties, 77 towns) collect some form of lodging tax in Virginia. Of those 189 localities, Alexandria and Blacksburg signed tax collection agreements last year allowing AirBnB to collect and remit lodging taxes on behalf of its hosts in those two localities. The agreements do not pertain to State sales tax, local business license, or business tangibles - so those taxes still have to be tracked down and collected by the appropriate authorities. Nor do the agreements apply to other online platforms.

Setting aside my general reservations about accepting the word of a multinational corporate entity that has repeatedly shown its willingness to flout tax, zoning and regulatory structures all over the world, I have grave concerns about the agreement those localities struck with AirBnB. Chief among them is this statement found on the City of Alexandria's website heralding their agreement:

"...Airbnb has indicated that it will not disclose the identity, location or amounts by operators' names or addresses, and will not allow the City to audit Airbnb records more frequently than once every four years, or audit by name or address."

- Such an arrangement is utterly unacceptable from a tax compliance standpoint. No other industry would have such discretion in reporting its tax obligations. To be clear, this means that AirBnB gets to pay those localities whatever it wants, and those localities have no recourse to verify that the amounts are correct. Further, there are serious equity issues with exempting prospectively one class of taxpayers (AirBnB hosts) from documentation and audits, while requiring compliance by all others;
- It means that AirBnB still has no responsibility to share the locations or level of activity taking place in those localities. It remains the locality's responsibility to identify hosts for purposes of business license or zoning compliance. Therefore, the argument that such an agreement reduces the workload for staff is not accurate;
- If we assume for a moment that AirBnB acts in good faith and reports and pays what it thinks it actually owes, those localities are still at the mercy of AirBnB's geocoding technology to determine jurisdictional boundaries for taxation purposes. Tax assessors are obligated to ensure that taxes received are, in fact, taxes owed for activity taking place in their jurisdiction. How does Blacksburg make sure that the revenue it receives from AirBnB is for taxable activity taking place in Blacksburg, and not in Montgomery County? We see this issue constantly with respect to state sales tax distributions where we receive Albemarle County's revenue and vice versa. If the Department of Taxation - which employs staff and sophisticated GIS software to mitigate this problem - cannot solve it, what makes us think that AirBnB can? The Department of Taxation at least provides localities with an audit trail so we can correct their mistakes when we find them. AirBnB? Not so much.

With all due respect to our friends in Alexandria and Blacksburg, the question should not be "how can Charlottesville follow the Alexandria/Blacksburg model (as was proposed at the last Council meeting)" but "why did 187 other jurisdictions in Virginia reject it?" The agreement those two localities struck with AirBnB is a devil's bargain that I would vigorously oppose should a similar one be proposed in Charlottesville.

If AirBnB wants to be a good corporate citizen, and indeed, provide the type of customer service to its hosts to which it pays lip service in its advertising, future agreements with Virginia localities should provide local tax and regulatory officials with auditable records, names of hosts, and locations of activity. Until that day, the Alexandria/Blacksburg model is a non-starter.

I am happy to answer any further questions you may have on this matter.

Thank you for your service to this community.

Todd Divers

Commissioner of the Revenue