



AUSTINCODE DEPARTMENT

TO: Mayor and Council

FROM: Cora D. Wright, Director
Austin Code Department

DATE: July 19, 2019

SUBJECT: Response to Resolution No. 20181129-041 concerning Code staff time and resources dedicated to short-term rental enforcement (CIUR 2118)

The purpose of this memorandum is to respond to [Resolution No. 20181129-041](#), which directs the City Manager to determine the amount of staff time and resources, including the Code and Law Departments, used to address issues related to short-term rentals, particularly among those properties requiring regular and/or recurring Austin Code Department (ACD) resources.

Short-Term Rental Program Overview

The Short-Term Rental (STR) program is comprised of two major components—License Administration and Enforcement. License Administration involves administrative review of license applications and renewal documents to verify all applicable code requirements are met prior to license issuance. It also involves collection of requisite annual license fees, which are the sole source of funding for License Administration.

Enforcement

When a property does not comply with City Code, a nuisance exists. This includes short-term rental regulations, which are zoning-based City Code requirements. Austin Code's enforcement actions to bring properties into compliance are considered nuisance abatement and are thus paid for using Clean Community Fee (CCF) funds¹. Enforcement activities involve investigating STR-related complaints and taking progressive enforcement actions against licensed and unlicensed properties found in violation of applicable local codes. STR and other enforcement activities are funded 97% through revenue from the CCF, as is authorized in City Code. The remaining 3% of funding is collected through fines that are imposed against property owners who fail to comply with City Code after proper notice, after being given a reasonable time to correct, and subsequently, after being found liable by an independent Administrative Hearing Officer. STR fines are typically imposed for advertising and/or operating an STR business without a license in violation of the STR ordinance.

There are currently 2,500 licensed STR properties in Austin. However, Host Compliance ("Host"), a recently hired third-party contractor, reports that there are 10,000+ Austin properties that advertise as an STR unit. Under this pilot contract, Host agrees to identify and provide location and advertising data on a total of 3,500 unlicensed properties by February 2020. In less than three months, Host dashboard data has already proven to be an effective tool for accessing

¹ 1992 Code Section 12-3-45; § 15-6-33 Rates for Clean Community and other Services

accurate and real-time STR-related activity sufficient for initiating proactive enforcement actions against unlicensed STR properties. As of this date, ACD has issued 224 Notices of Violation (NOVs) for illegal advertising as a result of Host data and complaint-driven enforcement. With this level of early success, the department expects to initiate enforcement action against all 3,500 properties identified by Host by February 2020. The department will also continue to respond to STR complaints, and estimates an additional 200 eligible properties will acquire licenses by fiscal year end. This will result in a 59% increase in the number properties licensed over the last two fiscal years. Generally speaking, once properties become licensed, they nearly all renew annually and remain code compliant in subsequent years.

Properties Requiring Recurring Enforcement Resources

For the fiscal year 2019 to date, the department has received 1,312 STR-related complaints. Of the 1,312 complaints received, inspectors confirmed code violations on 581 unique properties, of which 543 or 93% are unlicensed. This means the majority of the department’s STR enforcement resources are spent on unlicensed STR operations. Among the 581 unique properties with confirmed violations, 36 or 6% of them received four or more enforcement actions, such as a NOV or a citation which compels the property owner of record (or designated representative) to appear for an Administrative Hearing. Staff also noted that only one property (of the 36) was licensed at the time the violation was confirmed. The time spent on enforcement for these properties was approximately 829 hours or 5% of the total staff time dedicated to the STR enforcement.

Short-Term Rental Enforcement Cost Analysis

ACD recently hired MGT Consulting Group, a third-party contractor, to conduct a cost of service analysis of the department’s various operational programs, including the STR program. This work will be completed in the next 60 days. The chart below depicts a high-level summary of the STR Program cost analysis completed to date.

SHORT-TERM RENTAL PROGRAM FY 2018-19 Cost Analysis					
Resources	License Administration	Enforcement <i>(Licensed & Unlicensed Properties)</i>			Grand Total
		Field	Quasi-Judicial Support*	Total	
FTE <i>(Includes temp employees)</i>	7.3	7.5	2.3	9.8	17.1
Staff Hours**	15,184	15,600	4,784	20,384	35,568
Cost***	\$968,000	\$1,697,805	\$251,200	\$1,949,005	\$2,917,005
Revenue <i>(License & Administration Hearing Fees)</i>	\$968,000	\$0	\$51,200	\$51,200	\$2,917,005
Revenue <i>(CCF)</i>	\$0	\$1,697,805	\$200,000	\$1,897,805	

The cost analysis highlighted in this chart includes year-to-date and projected program trends.

* Quasi-judicial does not include City of Austin Law Department costs; ** Staff hours include total hours for FTEs and temporary employees; *** Include direct and indirect costs. See Law Department’s memo attached

In Summary

The STR program total annual cost and revenue is \$2.9 million. ACD estimates a total of 35,568 staff hours will be spent on STR license administration and enforcement by year end. The department projects that an additional 200 properties will be licensed this year, raising the total number of licensed properties to 2,700—a 59% increase in the number properties licensed over the last two fiscal years. If the total number of STR operations across the City is in fact 10,000+, licensed properties by year end will only represent 27%.

93% of STR properties found in violation so far this year were confirmed to be unlicensed. Enforcement against reoffending properties, mostly unlicensed, require an estimated 5% of the total staff time used for STR enforcement.

cc: Spencer Cronk, City Manager
Anne Morgan, City Attorney
Rey Arellano, Assistant City Manager
Ed Van Eenoo, Deputy Chief Financial Officer
Patricia Link, Assistant City Attorney IV
Brandon Carr, Assistant City Attorney III
Diana Thomas, City Controller
Angela Means, ACD Assistant Director
José Roig, ACD Assistant Director
Ricardo Ramirez, ACD Assistant Director

Attachment:

Memo re Law Dept Time Enforcing STR Ordinance (final)(updated) (002).pdf



L A W D E P A R T M E N T
M E M O R A N D U M

TO: Mayor and Council

FROM: Brandon W. Carr, Assistant City Attorney

THRU: Anne L. Morgan, City Attorney

DATE: July 19, 2019

SUBJECT: Response to Resolution No. 20181129-041 concerning time and resources dedicated to short-term rental enforcement (CIUR 2118)

The purpose of this memorandum is to respond to Resolution No. 20181129-041.

As a part of this Resolution, City Council directed the City Manager to “determine the amount of staff time and resources, including the Code and Law Departments, used to address issues related to short-term rentals, particularly among those properties requiring regular and/or recurring Code Department resources.”

In response, the Law Department analyzed how much time, in approximate hours worked, we spent on conducting legal research and providing legal advice related to short-term rental enforcement, time spent prosecuting short-term rental violations in municipal court, and time spent pursuing affirmative litigation regarding short-term rental enforcement. Affirmative litigation involves cases initiated by the Law Department based on a referral from the Code Department. These enforcement referrals are distinct and separate from referrals for collections matters. Many of the collections referrals that we receive from the Code Department involve collection of penalties assessed as part of the administrative hearing process that Code uses for adjudication of Short Term Rentals. We have worked with Code to create a system to separately track those collections cases that involve STRs in addition to tracking our time for STR collection efforts. We continuously work with Code on improving a standardized referral process for STR cases, which has resulted in a recent influx of new cases.

The following are the results of the Law Department’s analysis for the time period beginning October 1, 2018 – June 10, 2019.

Legal Research and Advice	Municipal Court Prosecution	Affirmative Litigation
30 hours	45 hours	32 hours

Total approximate hours: 107

Estimated cost of staff time: \$4,086.79

cc: Spencer Cronk, City Manager
Rey Arellano, Assistant City Manager
Cora Wright, Director, Austin Code Department