Short-Term Rentals (STRs)

Todd Sheeran, City Attorney, Herriman, Utah

Purpose

- Discuss some of the issues driving consideration of locally regulating short-term rentals

- Discuss what the law requires in local land use codes

- Discuss some the tools to manage, promote, or discourage STRs in your community

Background

- Pre 2007 – Vacation Rentals
- The Birth of Airbnb
- Post 2008:
  - Billion-dollar industry in US
  - Over a million listing in the US

Usual STRs

House in Park City

Guesthouse in Heber

Unusual STRs

Mud hut in Moab

Teepee in Hanna

Unusual STRs

Airstream Trailer in Levan

Bilbo Baggins' House (LOTR) in Cedar City

And, yes even a barn in Herriman

Benefits of STRs

Gathering options

VS

Benefits of STRs

Price

$404 VS $261

Other Benefits of STRs

- Meet people

- Money

  - Tourism = money spent in community

  - Extra income for property owner

  - Transient Room Tax for municipality

- Development opportunities / incentivize development

Issues with STRs

The Salt Lake Tribune

See how short-term rentals are taking over the Beehive State

In just two years, the number of [A]
nearly 27%.

KSL.com 54°

UTAH   Home   Counties   Police & Courts   Bus

St. George looking to crack down on short-term rentals in residential areas

by Ladd Egan | Posted - Aug. 8, 2016 at 9:48 p.m.

St George News ☁55

'The resort syndrome': Housing town hall in Ivins features debates on short-term rentals, density

Written by Chris Reed   ⏱ March 28, 2023   **STOUT ROOFING INC.**

TownLift PARK CITY NEWS

ark City Utah News   Newsletters   Shop   Jobs   Weather & Snow   Events   Webcams   Real Estate

Town & County

Summit County Council requests six month suspension of short-term rental licenses

The Salt Lake Tribune   **DONATE**

Moab, Park City cry foul as Utah lawmakers target rules for vacation homes

Tourist towns worry that the Legislature will harm their efforts to ease the affordable housing crisis.

Issues with STRs

- Loss of residential feel of neighborhood
- Nuisances for neighbors (light, noise, trash, fire safety)
- Parking issues

- AND…

- Housing

Issues with STRs - Housing

- "Our main results imply that for the average neighborhood, Airbnb activity has increased rents by 1.9%, transaction prices by 4.6%, and posted prices by 3.7%."

  - Garcia-Lopez et al. (2020), *Do short-term rental platforms affect housing markets? Evidence from Airbnb in Barcelona*, Journal of Urban Economics (Vol. 119)

Issues with STRs - Housing

- "[L]ater studies using more sophisticated approaches have found that **the effect of STR on housing prices is smaller than the initial study would suggest, localized in highly touristic areas**, and most likely to affect up-market assets and renters. These effects certainly merit attention in their own right, but it is difficult to conclude that restricting STRs is an effective policy tool to address housing affordability, particular for low-income households. Moreover, there is no strong evidence that restricting or banning STRs would lessen crime or make neighborhoods more desirable."

  - AirDNA (2021), *Effects of Short-Term Rentals on Local Housing Prices and Rents: A Literature Survey*
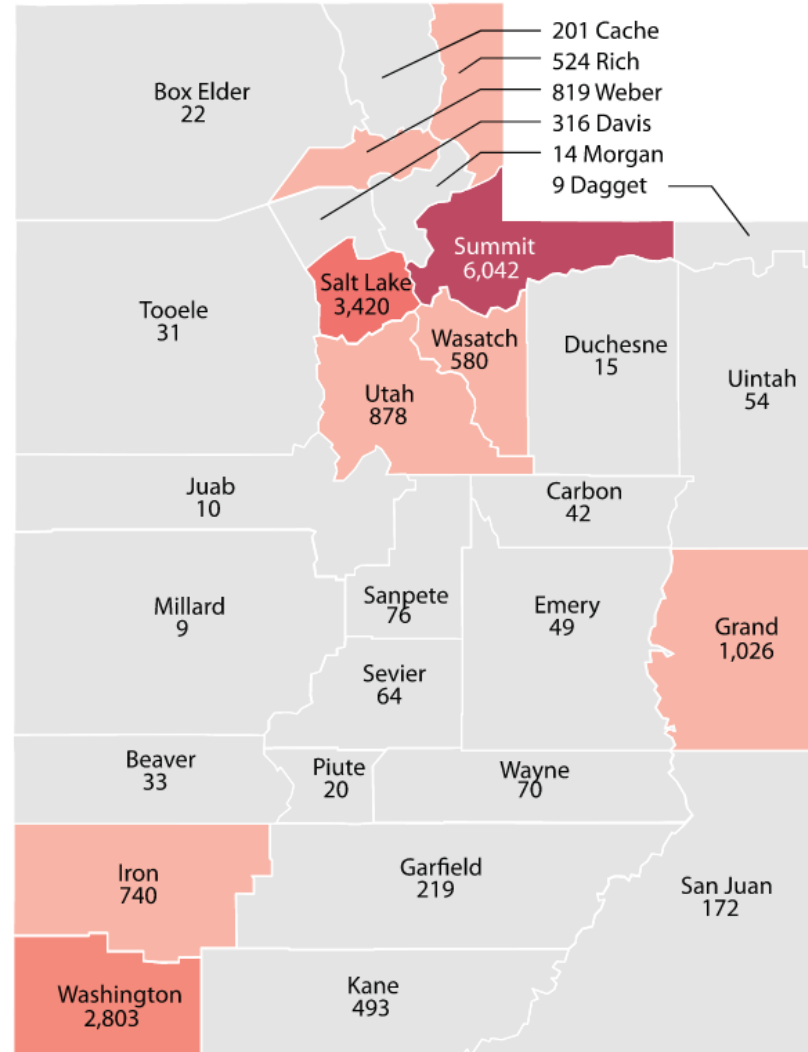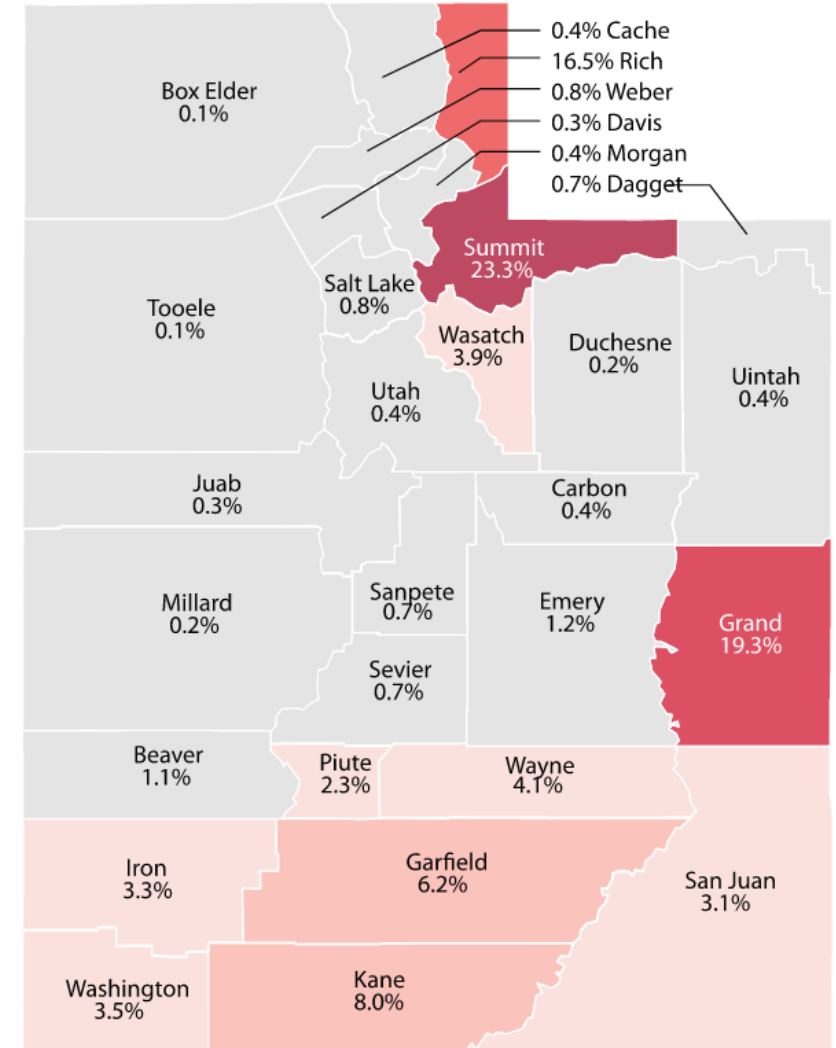
Issues with STRs – Housing in Utah

STRs in 2021

- 18,743 total STRs

- STRs account for 1.6% of total housing units

Number of STRs, 2021

- 201 Cache
- 524 Rich
- 819 Weber
- 316 Davis
- 14 Morgan
- 9 Dagget

Box Elder 22
Summit 6,042
Salt Lake 3,420
Tooele 31
Wasatch 580
Duchesne 15
Uintah 54
Utah 878
Juab 10
Carbon 42
Millard 9
Sanpete 76
Emery 49
Grand 1,026
Sevier 64
Beaver 33
Piute 20
Wayne 70
Iron 740
Garfield 219
San Juan 172
Washington 2,803
Kane 493

STRs as a Share of Total Housing Units, 2021

- 0.4% Cache
- 16.5% Rich
- 0.8% Weber
- 0.3% Davis
- 0.4% Morgan
- 0.7% Dagget

Box Elder 0.1%
Summit 23.3%
Salt Lake 0.8%
Tooele 0.1%
Wasatch 3.9%
Duchesne 0.2%
Uintah 0.4%
Utah 0.4%
Juab 0.3%
Carbon 0.4%
Millard 0.2%
Sanpete 0.7%
Emery 1.2%
Grand 19.3%
Sevier 0.7%
Beaver 1.1%
Piute 2.3%
Wayne 4.1%
Iron 3.3%
Garfield 6.2%
San Juan 3.1%
Washington 3.5%
Kane 8.0%

Regulating STRs – Utah Code

- Defines STRs (generally)
- Cities and counties may not
  - Prohibit an individual from "offering a short-term rental on a short-term rental website," and
  - "Punish an individual solely for the act of listing or offering a short-term rental on a short-term rental website"
    - This language is referred to as the *Knotwell* language
- Cities may review "an owner's rental agreement to verify compliance with the municipality's ordinance"

HB 291 (Musselman)

- Defined an STR

- Cleaned up the *Knotwell* language

- Require owners to disclose tax number on listing

- Created a voluntary "pilot" program and, if utilized, provided amnesty to owners

- Did not pass

HB 496 (Bennion)

- Defined an STR

- Required municipalities and counties that allow STRs to adopt additional regulations:

  - Required owners to obtain a permit

  - Owners required to attend a class

  - Restrict number of people in a home

  - Established safety requirements for STRs

- Did not pass

Locally Regulating STRs
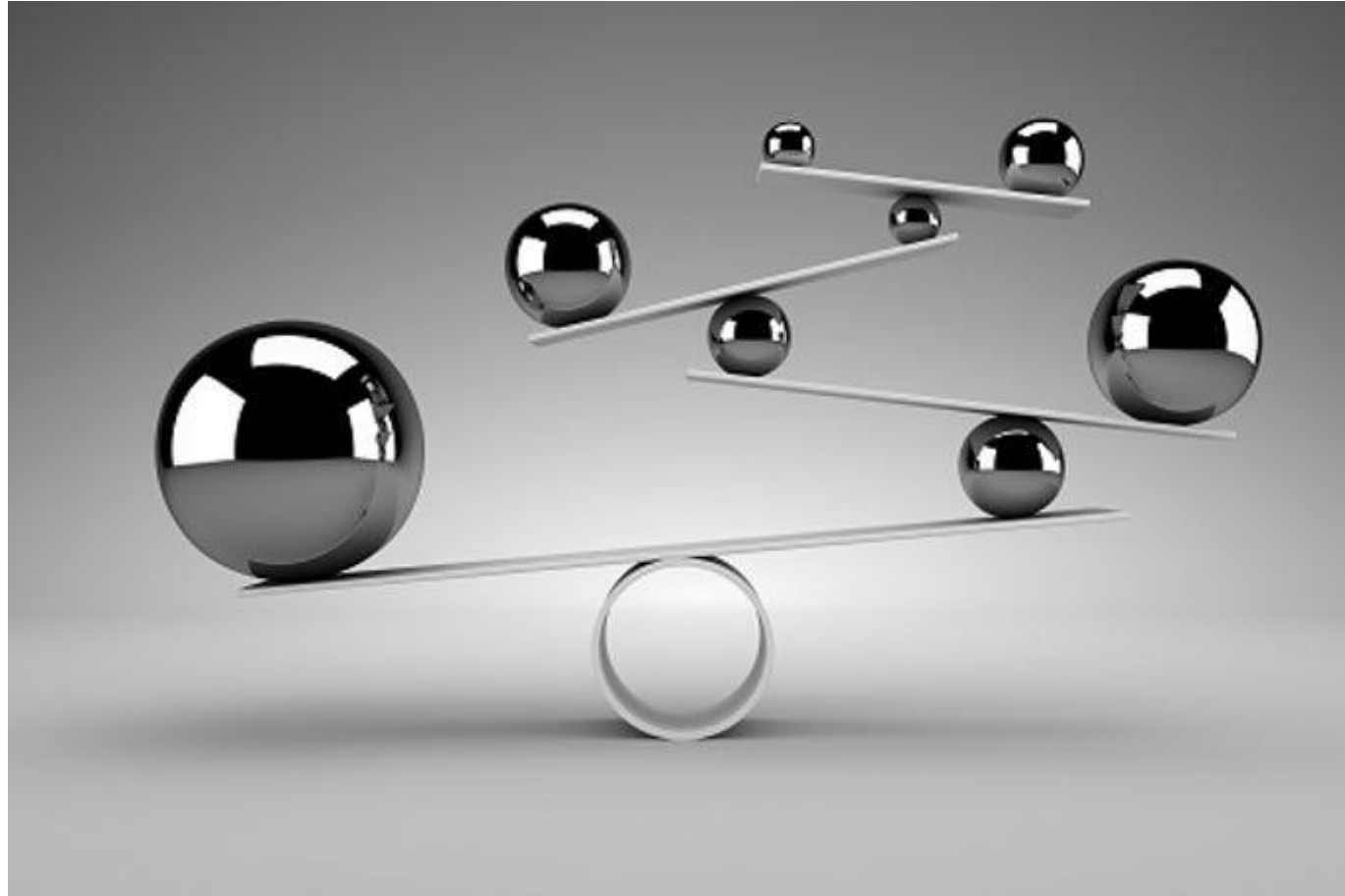
No Municipal Regulation

- Let's assume that your city code does not state, one way or the other, whether STRs are permitted or prohibited. In other words, your code is silent on the matter.

- Can a homeowner legally operate an STR in this scenario?

- It depends…

No Municipal Regulation

- Brown v. Sandy City (March 1998)

  - Code did not restrict; STRs allowed

- South Weber v. Cobblestone Resort (May 2022)

  - Code did not restrict, but use was like "lodging"; STRs no allowed

- See Ombudsman Opinions: 257 & 258 (June 2022)

  - Code did not plainly restrict and was not a B&B or lodge; STRs allowed

No Municipal Regulation

- If a city doesn't currently have regulations, that city should consider passing a temporary land use regulation (i.e., moratorium)

  - Allows cities to pause/prohibit STRs, which gives you time to create regulations without going through the 'normal' process

  - Moratorium may not exceed 6 months

Options for Local Regulations

- Zoning
  - Cities are authorized to enact regulations it "considers necessary or appropriate for the use and development of land within the municipality"
  - Preserving the single-family nature of an area is a legitimate public concern
  - Land use regulations have a presumption of validity
- Permit
  - Cities are authorized to regulate "any business within the limits of the municipality … and may impose fees on businesses to recover the municipality's costs of regulation"
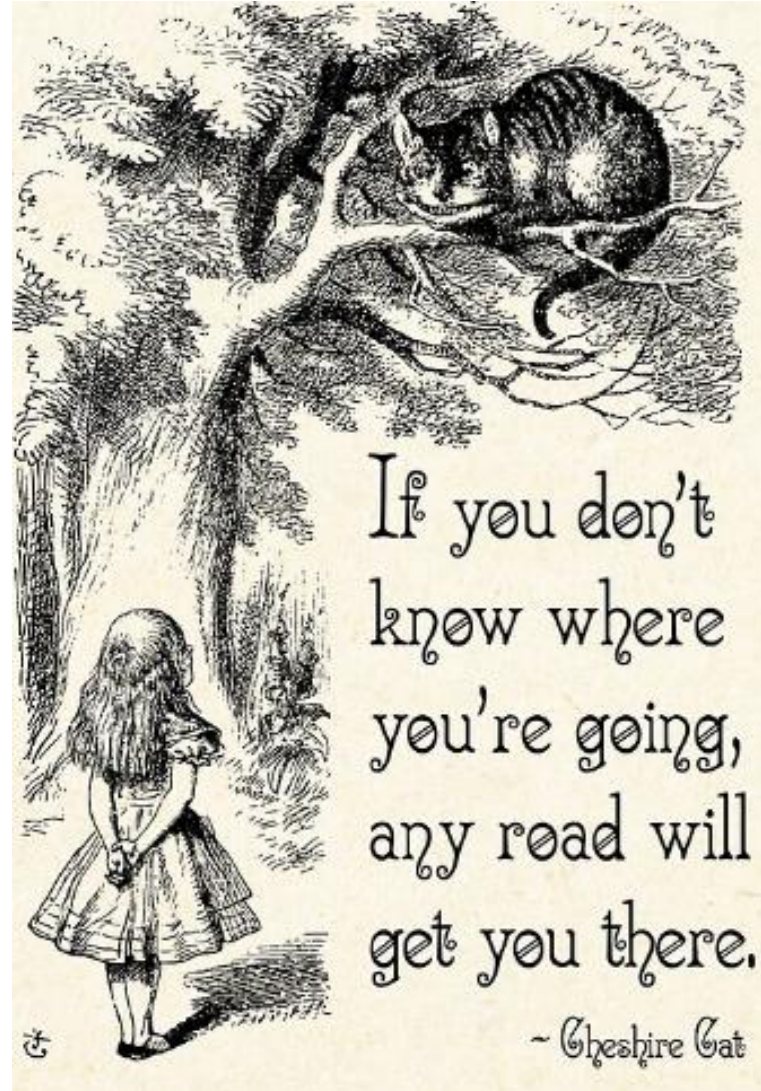 - Fees should be directly related to the costs incurred by the city

Policy Considerations

- What type of community to you have?

  - Rural? Suburban? Metro? Destination?

- Do you want more people visiting your community?

- Do you have appropriate resources?

- What is your ideology as it relates to property rights?

- What does your general plan say?

Drafting STR Regulations

If you don't know where you're going, any road will get you there.

~ Cheshire Cat

Community Objectives

No STRs	Limited STRs	Semi-Limited STRs	Allow STRs
Policy (maybe for a tourist community struggling with housing units and affordability): • STRs currently take up 23.3% of the community's housing units. • Due to limited areas for growth and housing affordability issues, the [local government] will prohibit STRs and seek to phase out existing STRs.	Policy (maybe for a community that is located near a popular attraction but relies on visitors spending money in the community): • Ensure that traditional residential neighborhoods are not turned into tourist areas to the detriment of long-time residents. • Give owners the option to occasionally utilize their properties to generate extra income from STRs as long as all policies and procedures are met.	Policy (may for large communities that have ample housing units): • Respect property owner's rights to utilize their properties as STRs to help make ends meet. • Provide maximum use for STRs but a means to ensure that homes are not turned into pseudo hotels or "party houses."	Policy (maybe for a suburban community with ample housing and a struggling downtown): • Respect property owner's rights to utilize their properties as STRs to help make ends meet. • Encourage additional tourism to drive more business to the community stores and restaurants. • Ensure that the City does not lose out on tax revenue that could be invested in much needed services for permanent residents.

Definitions

- State what an STR is and what it is not
  - STRs are only permitted in a dwelling that is rented for less than 31 days. STRs are not a hotel, motel, B&B, or inn
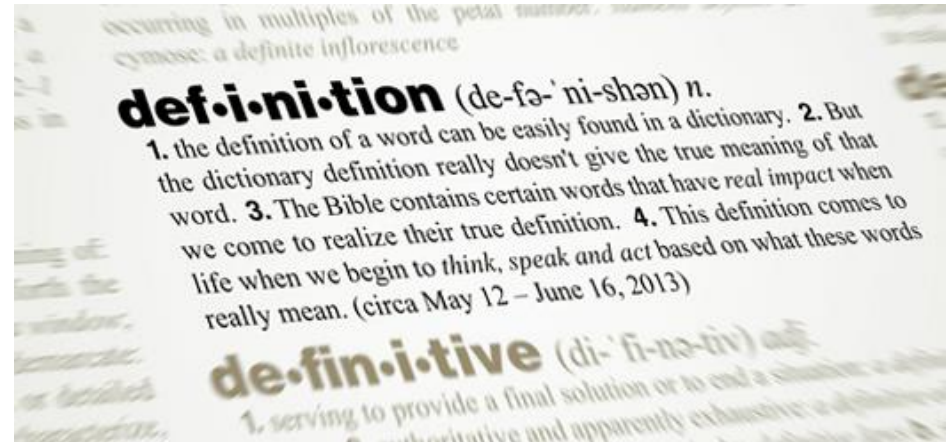
- Define what a dwelling is and what it is not and whether an STR is allowed in certain types of dwellings

Location

- All zones, no zones, some zones, overlay zones? Conditional use? Special Use Permit?

- Allow them in external ADUs?

- Limit the number of STRs in neighborhoods?

- Exceptions for development partners?

Other Zoning Regulations

- Parking

- Noise (impose reasonable quiet hours)

- Property maintenance requirements (landscaping, garbage, snow)

- Limit number of people (caution – definition of family), rooms, or nights

- Owner-occupancy requirement (**caution**)

- Cross reference to follow all business license requirements

Drafting STRs Regulations - Permits

- Detailed application
- Permits displayed on property
- Evacuation plan
- Local contact, if owner lives xx miles away

- Enforcement / penalties addressed
- Reason for revoking permit
- Length of license, renews
- Appeal language

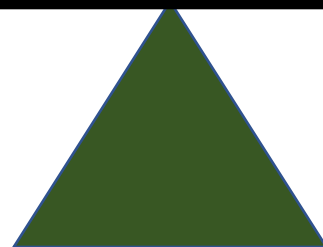**What is your philosophy on government land-use regulations?**

Should the government tell you what you can and can't do on your property?

Should the government tell your neighbor what they can and can't do on their property?

Where do STRs fall?

No Regulation

Heavy Regulation

Thank You

Todd Sheeran

City Attorney

Herriman, Utah

801-446-5323

tsheeran@herriman.org

Questions and thank you!