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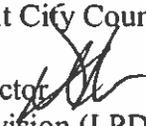
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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director 
Legislative Policy Division (LPD) Staff

DATE: June 14, 2016

RE: **Applying Hotel Tax to Airbnb**

Council Member Ayers has requested that LPD provide a report analyzing whether or not the hotel tax can be applied to short-term rooming and housing rental companies like the popular Airbnb. LPD previously provided a more general report regarding regulatory and tax issues pertaining to this emerging economic model, dated December 1, 2015.ⁱ As stated therein, LPD's initial research regarding this novel and developing economic sector indicates that an Airbnb or similar "sharing economy" short-term housing arrangement should be included within the definition of "Rental Property" under Sections 9-1-13 and 9-1-81 of the City code.

As that report continued: "...Council may wish to ask the Building Safety, Engineering and Environmental Dept. (BSEED) and the Finance Department's tax division, as appropriate to determine whether or not additional regulation or ordinance amendments are necessary to appropriately regulate and tax Airbnb-type activities in the City of Detroit." In particular, LPD is concerned that regular and/or continuous use of residential property as a short term rental under Airbnb or similar companies may violate zoning requirements for residential neighborhoods, which can be expected to generate complaints and inquiries as government seeks to regulate and tax this emerging sector. However, if a homeowner only occasionally uses a small part of their primary residence, such as a guest bedroom, as a short term rental, the same zoning prohibitions may not apply to such an ancillary use. On the other hand, in that case there is probably very little revenue involved.

Zoning aside, LPD perceives no theoretical problems to applying the hotel tax to Airbnb-type short term rooming activities. Michigan's hotel tax, identified as an "an excise tax on persons engaged in the business of providing rooms for dwelling, lodging, or sleeping purposes to transient guests", is set forth at MCL 141.861 *et seq.* An additional hotel excise tax is levied by MCL 207.624, the "State Convention Facility Development Act". The State collects these taxes.

As noted above, LPD's research has identified no legal obstacle to applying these statutes to the types of short term lodging activities associated with the Airbnb brand. Indeed, Airbnb's web site indicates that it routinely enters into agreements with states and other taxing jurisdictions to collect such hotel or accommodations taxes, where it is authorized to do so by law.¹ However there is no indication that they have done so in Michigan to date. Therefore, Council may wish to inquire of the State Treasurer, who also serves as Chair of the City's Financial Review Commission, to undertake collection of the hotel tax from Airbnb. A draft resolution to that effect is attached.

If Council has any other questions or concerns regarding this subject, LPD will be happy to provide further research and analysis upon request.

<http://www.detroitmi.gov/Portals/0/docs/Legislative%20Policy%20Reports/2015%20Report%20to%20Council/Short%20Term%20Rentals%2012-1-2015.pdf?ver=2015-12-01-142427-557>

It has just been reported that the State of Connecticut has signed such an agreement with Airbnb: "Connecticut is the first state in the tri-state region to do so, but joins a growing list of states and cities internationally with similar agreements."

<http://www.nbcconnecticut.com/news/local/Airbnb-To-Start-Paying-Hotel-Tax-To-State-of-Connecticut--382425621.html>

¹ <https://www.airbnb.com/help/article/653/in-what-areas-is-occupancy-tax-collection-and-remittance-by-airbnb-available> and <https://www.airbnb.com/help/article/654/what-is-occupancy-tax--do-i-need-to-collect-or-pay-it>

RESOLUTION FOR THE STATE TREASURER TO ENTER INTO AN AGREEMENT WITH AIRBND TO COLLECT HOSPITALITY TAXES ON SHORT TERM RENTALS

By Council Member Janeé Ayers

WHEREAS, Airbnb is the most popular example of a new and growing popular model for short term housing and travel, where visitors to a city can contract through Airbnb to stay in residences rather than traditional hotels; and

WHEREAS, According to Airbnb's web site they currently list over 300 available residence in the City of Detroit; and

WHEREAS, Michigan's hotel tax, identified as an "an excise tax on persons engaged in the business of providing rooms for dwelling, lodging, or sleeping purposes to transient guests", is set forth at MCL 141.861 *et seq.* An additional hotel excise tax is levied by MCL 207.624, the "State Convention Facility Development Act". The State collects these taxes. ; and

WHEREAS, Airbnb's web site indicates that it routinely enters into agreements with states and other taxing jurisdictions – most recently Connecticut - to collect such hotel or accommodations taxes, where it is authorized to do so by law; and

NOW, THEREFORE, BE IT RESOLVED THAT Council strongly urges the State Treasurer, who also serves as Chair of the City's Financial Review Commission, to undertake collection of the hotel tax from Airbnb; and

BE IT FURTHER RESOLVED THAT Copies of this Resolution shall be delivered to the Mayor, Corporation Council, the City Assessor, the State Treasurer and other members of the Financial Review Commission.