

Could Airbnb Turn Toronto's Most Affordable Rental Housing Stock Into Ghost Hotel Suites?

Allowing the short-term rental platform access to the city's secondary suites impacts tens of thousands of low and moderate income renters

Summary

City staff at Municipal Licensing & Standards and Planning have been asked to prepare regulation for short-term rental companies like Airbnb. On June 7, staff released a proposal for short-term rental regulation as a platform for further consultation. While city staff has made the protection of Toronto's rental housing market a priority and introduced a principal residence requirement in an effort to eliminate commercial Airbnb hosts, staff omitted to apply the same standards across all forms of rental housing in Toronto.

Permitting short-term rental companies unrestricted access to this form of rental housing supply not only undermines the province's long-term affordable housing strategy, but also the city's own efforts to deal with its lack of rental stock and the overall affordable housing crisis.

More precisely, the proposed regulation opens up a loop-hole around the future use of secondary suites, which are not protected by the proposed principal residence requirement. Such secondary suites, as this report will highlight, have been promoted since the early 1980s as a tool to encourage the creation of private rental housing. This underlying objective holds true until today, with Ontario's Minister of Housing Chris Ballard acknowledging in the fall of 2016 that secondary suites "form a substantial and increasing part of the province's affordable housing supply."²

In what follows, we will show that secondary suites represent an invaluable form of rental housing for Toronto's low and moderate income households. With about one-fifth of Toronto's rental stock being in the form of secondary suites, we caution that Toronto will lose much of this supply if the city won't close the loophole that allows Airbnb unlimited access to secondary suites. Permitting short-term rental companies unrestricted access to this form of rental housing supply not only undermines the province's long-term affordable housing strategy, but also the city's own efforts to deal with its lack of rental stock and the overall affordable housing crisis.

Toronto is not alone in its effort to regulate the home-sharing market. The City of Vancouver recently proposed regulation. In it, secondary suites are protected from conversion into hotel suites. We encourage city staff and regulators to follow Vancouver's lead and protect the city's secondary suite supply.

What Are Secondary Suites?

Created through subdividing or adding on to an existing detached, semi-detached or row house, secondary suites are self-contained rental units with a private kitchen, bathroom facilities and sleeping areas.³ Such suites are commonly known as basement apartments, granny flats, in-law apartments or nanny suites and have been promoted for three main reasons: to add to the supply

of more affordable rental housing; to increase density in ground-level residential areas without altering a neighbourhood's "character;" and, to allow homeowners to generate rental income to offset some of the cost of homeownership.⁴ According to the Ontario's Minister of Housing, secondary suites "are widely recognized as one of the most affordable forms of rental housing,"⁵ and as such, as the Canada Mortgage and Housing Corporation puts it, "enable low and moderate income households to live in ground-related housing in a residential setting."⁶ Secondary suites and their respective legislation, as the next section illustrates, were never designed to provide accommodation to tourists nor to supply short-term rental companies with hotel inventory.

What is the Legal Status of Secondary Suites?

Beginning in the early 1980s, the province undertook numerous initiatives designed to encourage the creation of secondary units.⁷ In 1994, Ontario's NDP government passed Bill 120: The Residents' Rights Act to authorize secondary suites which met reasonable building, fire and planning standards as-of-right in single and semi-detached houses across the province, regardless of local zoning bylaws.⁸ Bill 120 recognized that secondary suites are an important form of housing that tends to be "more affordable than other private market rental units, and can provide accommodation for tenants in neighbourhoods which may not otherwise have a sufficient supply of affordable rental housing." In 1995, the Conservative government reintroduced the right of municipalities to outlaw secondary suites and passed Bill 20: The Land Use Planning and Policy Protection Act in 1996, which removed as-of-right secondary suites permissions.⁹

More recently, Ontario's Liberals passed Bill 51: The Planning and Conservation Land Statute Law Amendment Act in 2006, which empowers municipalities to "establish second unit policies as-of-right, without appeal to the Ontario Municipal Board."¹⁰ In 2010, the provincial government released Building Futures, Ontario's Long-Term Affordable Housing Strategy (LTAHS).¹¹ As part of the province's affordable housing strategy, Bill 140: The Strong Communities through Affordable Housing Act was passed in 2010. Bill 140 established affordable housing as a matter of provincial interest and amended the Planning Act to require municipalities to include the authorization of secondary suites in their respective official plans.¹² Ontario's LTAHS objectives are mirrored in its guiding land use policy documents. The Provincial Policy Statement (2014), for instance, promotes secondary suites as part of an "appropriate mix of *residential*" that sustains "healthy, livable and safe communities."¹³ Equally, the province's Growth Plan for the Greater Golden Horseshoe (2017) promotes secondary suites as a means to meet the province's residential intensification targets particularly along major transit stations and to address "issues of housing affordability" by providing "a range and mix of housing options, including second units and affordable housing."¹⁴

At the municipal level in Toronto, a post-amalgamation by-law sought to bring various suburban approaches in line with pre-amalgamation city policy and permitted secondary suites in detached, semi-detached and row housing as-of-right in 1999.¹⁵ Challenged to the Ontario Municipal Board

(OMB) by a number of individuals and resident groups, the OMB amended Toronto's by-law on issues of parking and the alterations of buildings, and eventually approved it on July 6, 2000.¹⁶

Given the most recent provincial policy changes, the permissive regulation for secondary suites and the lack in rental housing supply in Toronto, Councillor Ana Bailão (Ward 18, Davenport) and Councillor Mary-Margaret McMahon (Ward 32, Beaches-East York) have been working to develop a set of performance standards for detached secondary suites, also known as laneway suites. Such laneway suites have been promoted in a number of Canadian cities, such as Vancouver, Edmonton, Calgary, Regina, Ottawa and Moncton. The policy intend in promoting detached secondary suites in *all* of these cities: to address a crisis in affordable housing by adding to the affordable rental housing stock.¹⁷

How Many Secondary Suites Are in Toronto?

In 1999, City of Toronto estimated the number of Toronto's basement suites alone to be at about 100,000, noting that approximately 2,000 to 3,000 new units being added each year.¹⁸ It is currently estimated that about one-fifth of the city's rental stock is in the form of secondary suites in principal residences.¹⁹ Thus, secondary suites make up a substantial amount of rental stock in the city, providing homes to a fifth of Toronto's 476,085 renters.²⁰ Needless to say, for low and moderate income households, secondary suites are an invaluable source of less expensive rental housing.

Why Does Airbnb Want Access to the City's Secondary Suites Supply?

Considering that Toronto's proposed short-term rental regulation, if passed, would eliminate commercial Airbnb hosts (absentee landlords) who rent out multiple condominium units, Airbnb stands to lose a substantial amount of ready-made ghost hotel suites in the city's residential condominium districts.²¹ These condominium units were ideal Airbnb inventory as they are easily appropriated from intended residential use to hoteling. Listed mostly as "entire homes," tourists didn't have to share a place with anyone and could be their own host, as Airbnb puts it in a description of its entire room category.²² With almost two thirds of Airbnb's revenue generated in Toronto by this room type alone,²³ Airbnb stands to lose a significant amount of its cash flow.

In light of losing such ready-made ghost hotel stock, Toronto's secondary suites, i.e. self-contained rentals with a private kitchen, bathroom facilities and sleeping areas, represent the next best housing category for the purpose of turning homes into hotels. Because there are no principal residence requirements or caps on overnight stays attached to secondary suites in the city's proposed short-term rental regulation, secondary suites can potentially be turned into

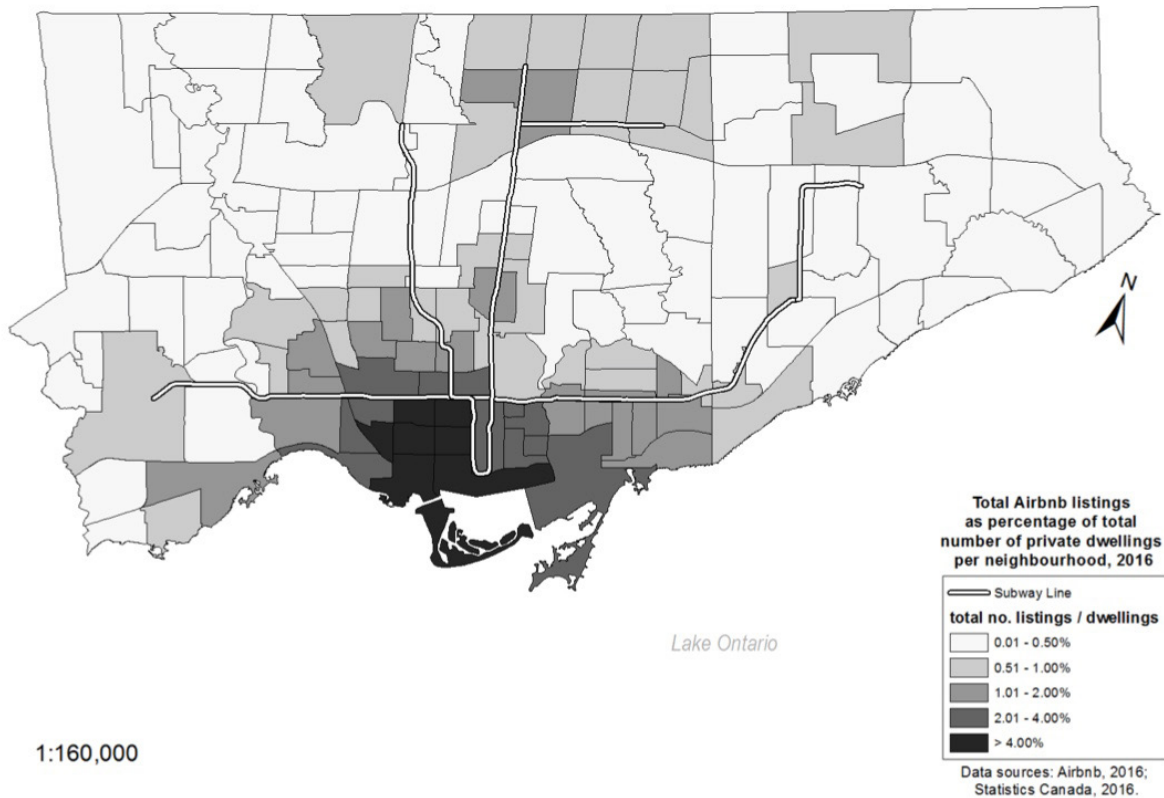


Figure 1: *Where to find Airbnb Listings in Toronto?*²⁵

full-time hotel suites. We know from other jurisdictions, that only 8% of Airbnb’s hosts, who rent out entire home more than 180 days a year, generate about one third of its revenue.²⁴ This explains why the loophole around secondary suites in Toronto, is a valuable one for Airbnb.

Location is another important factor. Many of Toronto’s secondary suites are located in downtown neighbourhoods in which most of Airbnb’s non-condo inventory can be found. These units are located in close proximity to the city’s main attractions, near major transit stations and in areas that boast the highest walkability index. Taking these geographic features into consideration, it is hardly surprising that Airbnb seeks access to the city’s secondary suite stock. (See Figure 1.)

Why Should Toronto Protect Secondary Suites?

Secondary suites are a widely recognized form of rental housing that tends to be more affordable than other rental options available to low and moderate income households.²⁶ Allowing Airbnb access to this housing type puts tourists in direct competition with households relying on this source of rental housing.

Toronto, like other Canadian cities, has permitted secondary suites as a tool to create more affordable housing options, not to supply tourists with accommodation and global corporations with ghost hotel inventory. Allowing short-term rental platforms access to this housing form runs counter to the intent of permitting and legalizing secondary suites in the first place. Instead of adding more rental housing inventory to the market, it will decrease it, and reduce housing options for Toronto's low and moderate income households.

Permitting Airbnb access to secondary suites effectively rewards homeowners to remove their secondary suites from the long-term rental market, particularly in areas where Airbnb rentals are most lucrative. And who can blame them? If a homeowner can escape a number of regulatory obligations and legal responsibilities, i.e. circumventing Ontario's Residential Tenancies Act, and generate double, triple or four times as much in monthly rental income,²⁷ why would a homeowner not take advantage of running a tourist rental business on the side, particularly if there are no caps on overnight stays attached to secondary suites?

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Airbnb says that cities won't lose any long-term rental units because homeowners may not put these units on the long-term rental market in the first place.²⁸ No harm done, in other words. If this were the case, why would homeowners have gone through the trouble of modifying their homes and constructing legal secondary suites in the first place? More importantly, what prevents a homeowner who wants to make extra money on the short-term rental market from saying that their secondary suite would not be available on the long-term rental market? The mere decision by the City of Toronto not to restrict the use of secondary suites for short-term rental use will be incentive enough for homeowners to switch to the short-term rental

market. It will also provide a financial incentive to investors looking for a home that can be used to run a full-time side business catering to tourists. In both cases, the city would diminish its secondary suite stock for renters looking for a principal residence and quite possibly contribute to driving up real estate prices in ways that fuels gentrification, i.e. displaces low and moderate income households.

Prohibiting homeowners from using their secondary suites for short-term rental use does not mean that the City of Toronto would prevent them from utilizing their property as a means to generate additional income. Using secondary suites as a form of cost recovery has always been one underlying reason why houses built for single family use have undergone construction to create accessory apartments that could be placed on the rental market. John Lorinc talks about this as a "classic example of how, in an urban setting, self-interest yields a social dividend."²⁹ Self-interest, in this case, would be the desire to generate additional income to offset some of the costs

of homeownership, while the social dividend has so far been the creation of more affordable rental housing that allows low and moderate income households to live in neighbourhoods that would otherwise be out of reach.

Airbnb's attempt to make secondary suites available for short-term rentals appeals to individual self-interest without the social dividends. It fills the pockets of homeowners and the \$31-billion corporation alike.³⁰ It creates the potential for full-time hotel suites where homeowners can earn two to four times as much renting out to tourists than to long-term tenants.³¹ Permitting short-term rentals in secondary suites would run counter the Provinces' Long Term Affordable Housing Strategy and Toronto's attempt to deal with the city's lack of rental stock and its affordable housing crisis.

What Should Toronto be Doing?

British Columbia's provincial government and the City of Vancouver have legalized secondary suites as a tool to ease the rental housing market, much like Ontario and the City of Toronto. Faced with a housing crisis not dissimilar from Toronto, suffering from rental vacancy rates of >1%, Vancouver continues to protect its secondary suite supply, including laneway suites, from short-term rental companies.³² The City of Toronto should take note of Vancouver's proposed short-term rental regulation and follow their lead in protecting this important form of rental housing supply. This is not to say that secondary suites could not end up on the short-term rental market legally.

Secondary suites and laneway housing in Vancouver, for instance, can still be rented on Airbnb and other short-term rental platforms albeit only by the actual principal resident of these units. By applying the principal residence condition, Vancouver distinguishes between the owner of a property that includes secondary suites and the actual principal residents that occupy these. It continues to allow principal residents to rent out their own home on Airbnb, but it prevents property owners from picking short-term renters over long-term tenants. Vancouver provides regulation with a soft touch. It legalizes short-term rentals in secondary suites to an extent, but continues to protect its secondary suite housing stock of about 30,000 units from being turned wholesale into ghost hotels for tourists by their owners.³³

Endnotes

- 1 A big thanks to Bahar Shadpour, Mary Todorow (Advocacy Centre for Tenants Ontario) and Karen Sawatzky (Chair of the Renters Advisory Committee, Vancouver) for their invaluable insights and comments.
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