

# Why the short-term rental revolution is here to stay

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It all started with the growth of the sharing economy, which has exploded over the past decade and disrupted many industries around the world, by allowing ordinary people the ability to monetise their goods and services and directly connecting them to consumers. According to a report by PricewaterhouseCoopers, the world's sharing economy could reach \$335bn in global revenue by 2025.



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Other than Uber, Airbnb is the second most successful sharing economy company in the world. Airbnb provides owners with an online platform to rent out their houses, apartments, rooms, tree houses, pillow forts or any other type of space you can imagine. Although there are competitors, Airbnb dominates the global shared hospitality industry, with more than six million listings available worldwide, in over 81,000 cities in 191 countries. About 2 million people stay in an Airbnb listing worldwide on any given night – in comparison, the largest hotel group in the world has just over 700,000 total guest rooms across the globe.

## Airbnb on everyone's radar

With over 93% of all available short-term rentals in Cape Town being booked via Airbnb, it is no wonder that “Airbnb” is on the radar of almost every community scheme. There are currently 20,300 listings available in Cape Town, while Johannesburg is the second highest with 5,660.

The advantages of Airbnb are clear, it provides tourists and visitors a chance to stay in an intimate, private home rather than an impersonal hotel room. On the other hand, it gives home owners the opportunity to compete with traditional hotel and lodging groups and to make some serious cash in the process. According to Airbnb, the typical host in Cape Town earns an additional R43,400 by sharing their home for 32 nights per year and the combined earnings of all hosts in Cape Town reached approximately R1bn during 2018.

## Major target for governments

While many people have praised Airbnb for revolutionising the rental industry for many communities across the world, it has become a major target for governments, local municipalities, neighbourhood councils and, not surprisingly, community schemes.

The main reason for this opposition is probably something you would expect and that is the assumption that short-term rentals lead to a nuisance to both the landlord and their neighbours. It is important to stress that there is no empirical evidence which shows that short-term tenants in general cause more nuisance than traditional long-term tenants. This “nuisance” may be exasperated by the envy felt by neighbours for not having the same entrepreneurial mindset to join the short-term rental revolution.

The second, less obvious reason, is the negative effect that it has had on the availability of housing units for local residents to be used for traditional long-term rental purposes.

## **Responsible home-sharing**

The good news is that Airbnb has indicated that it wants to work with cities to help with regulation, in order to do home-sharing responsibly. Airbnb has so far partnered with more than 300 governments across the world, including the City of Cape Town, which signed a collaboration agreement with Airbnb on 18 October 2017 to promote the benefits of people-to-people tourism for Cape Town residents and their communities, as well as promote Cape Town across the world as a unique travel destination. This collaboration agreement is a clear statement that Cape Town is fully behind the global home short-term rental revolution.

It comes as no surprise that governments look to support the platform, given the fact that in 2018 the ripple effect of host and guest activity on Airbnb generated an estimated \$678m in economic impact in South Africa, supporting over 22,000 jobs across the broader South African economy. On 12 April 2019, the government published the Tourism Amendment Bill for public comment that confirms that short-term letting operations, with appropriate limitations, will be supported by national government, so as to promote South Africa’s tourism industry and national interests. In terms of the proposed regulations, government wants to limit the number of nights Airbnb owners can rent out their properties per year, by introducing certain thresholds. The proposed thresholds range between 30 and 120 nights per annum.

## **Short-term rental revolution here to stay**

As you can see, the reality is that the short-term rental revolution will only continue to grow in South Africa, and local governments will be short-sighted not to support its growth.

This leaves community schemes with one burning question – what can we do about this disruptive threat? Well, the short answer is nothing.

The bad news is that what most community schemes don’t realise is that in the absence of any registered title deed or land-use restrictions, owners enjoy an unrestricted right to use their property for purposes of short-term letting, provided of course that this does not cause an unreasonable nuisance to their neighbours.

Community schemes must understand that they do not have the authority to introduce restrictive conditions that place a limitation or prohibition on the rights of property owners, including their right to practice short-term letting.

This is due to the fact that there are currently no provisions in the Sectional Titles Schemes Management Act or any other legislation relevant to community schemes that give a community scheme the delegated authority to restrict an owner's right to deal with his property. For limitations on ownership or title of land to be legally valid and binding, they must either be included in town planning conditions, restrictive covenants, servitudes or conditions of title, or they must be introduced by way of land-use planning legislation.

## **Regulating short-term letting**

Before you decide to sell your community scheme property and run for the hills, bear in mind that community schemes are empowered to regulate short-term letting, if this practice causes an unreasonable nuisance. This regulation will involve the introduction of suitable rules aimed at the practical regulation of this type of land use. The wording of such regulatory rules is very important to ensure that they don't unlawfully infringe on the rights of property owners, and we highly recommend that you seek the assistance of a specialist community schemes attorney in this regard.

## **ABOUT THE AUTHOR**

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