

Trends and Developments

Contributed by:

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Short-Term Rental Law in Rhode Island

The legality and regulation of short-term rentals, which in some municipalities are defined as “guest house” or “transient guest facility” uses (STRs), has, with the explosion in popularity and use of hosting platform websites such as Airbnb, VRBO, and others, led to a legal quagmire of land use issues and litigation in jurisdictions throughout the country. Rhode Island is certainly no exception to this, and has produced a number of recent court decisions arising from land use disputes involving STR issues in different Rhode Island cities and towns; these decisions all have involved, in part, disputes concerning the application and construction of statutory language and whether such language pre-empts municipalities from prohibiting or overregulating STRs.

In 2021, the Rhode Island General Assembly passed legislation which made advertising STRs through online platforms explicitly legal. The passage of this legislation was contemporaneous with the creation of a statewide STR registration scheme administered by the Rhode Island Department of Business Regulation (DBR). As in many jurisdictions, there are significant disparities in how STRs are regulated though local zoning ordinances and municipal registration requirements governing shorter-term lease arrangements. For example, some municipalities in Rhode Island have amended their zoning ordinances in recent years to include specific definitions for STR uses, which are generally rentals for a period of thirty (30) days or less. These zoning amendments also, in some cases, have included more stringent dimensional and use restrictions on STRs, prohibiting these uses in specific zones, imposing increased parking capacity requirements, and further restricting occupancy limits in STR housing, among other restrictions. Additionally, some municipalities have, either in lieu of or in addition to such zon-

ing amendments, created local and often onerous registration requirements, which are a prerequisite to the use being deemed permitted in that particular city or town. Other municipalities may not yet have any specific provisions in their zoning ordinances related to STRs, or may only have a registration scheme but no accompanying zoning code provisions. These disparities, in conjunction with the statutory scheme discussed below, have led to a number of contentious legal disputes, and many legal questions remain unanswered until further clarity is provided either by the courts or the state legislature.

Rhode Island General Laws § 42-63.1-14 governs STR advertising on third-party hosting platforms. The statute was the first to explicitly address third-party hosting platforms such as Airbnb and VRBO. The statute allows for advertising of STRs on such third-party hosting platforms so long as the property listed is registered with the DBR. Under the statute, “short-term rental” means “a person, firm, or corporation’s utilization, for transient lodging accommodations, not to exceed thirty (30) nights at a time.” (R.I. Gen. Laws § 42-63.1-14(b).) Importantly, the statute also provides that:

“(a) For any rental property offered for tourist or transient use on a hosting platform that collects and remits applicable sales and hotel taxes in compliance with §§ 44-18-7.3(b)(4)(i), 44-18-18, and 44-18-36.1, *cities, towns, or municipalities shall not prohibit the owner from offering the unit for tourist or transient use through such hosting platform, or prohibit such hosting platform from providing a person or entity the means to rent, pay for, or otherwise reserve a residential unit for tourist or transient use* “ (RI Gen Laws §42-63.1-14(a)) – [emphasis added].

As noted above, municipalities throughout Rhode Island have employed vastly different approaches in regulating STRs. Generally, most municipalities have effectuated some form of local STR regulation through their zoning ordinances and/or separate registration requirements. For example, the City of Newport and the Town of Narragansett have pursued more restrictive approaches in an effort to significantly limit STRs. Newport's ordinance only permits STRs in a few of the City's nineteen (19) zoning districts and prohibits STR uses in all nine (9) of the residential zoning districts. For properties where these uses are allowed either by right or by special use permit, the ordinance imposes further dimensional and use constraints which are more restrictive than what is applicable to an ordinary residential use.

Similarly, in May of 2024, the Town of Narragansett passed ordinances restricting STRs; however, Narragansett employed a different approach than that of Newport. The Narragansett ordinance banned all rentals with durations of less than seven (7) days and required a Short-Term Rental permit for rentals lasting from 8-30 days. The ordinance further limited the number of Short-Term Rental permits allowed in the town, and this cap will progressively decrease each year. Various municipalities, including Newport, have also enacted separate ordinances that prohibit property owners from advertising on third-party hosting platforms if using the property, as an STR would otherwise violate the zoning ordinance. Both Newport and Narragansett additionally require STR owners to register their properties with the municipality and meet various requirements for such registration.

Many of these more recent ordinance amendments have sparked litigation challenging the legality of these restrictions. Various arguments

have been advanced regarding the legality of certain municipal ordinance provisions, including, but limited to, lack of delegation of authority by the state and pre-emption under R.I. Gen. Laws § 42-63.1-14. These arguments are often accompanied by other constitutional arguments and legal challenges. A number of recent Rhode Island Superior Court decisions present varying rulings and analyses on these issues. In October of 2024, one Superior Court judge issued a temporary restraining order and a preliminary injunction against the Town of Narragansett, prohibiting the implementation of the STR ordinance in the Town – see *Narragansett 2100, Inc. et al. v Town of Narragansett et al.*, No WC-2024-0372 (R.I. Super. 2 October 2024) – [Superior-WC-2024-0372.pdf](#). That Court held that, because the Narragansett ordinance entirely prohibits advertising of STRs for a period of less than seven (7) nights, the Plaintiffs had a reasonable likelihood of success on the merits on their argument that the ordinance conflicts with the above-quoted statutory language which provides that cities and towns shall not “prohibit the owner from offering the unit for tourist or transient use through such hosting platform,” and the ordinance may therefore be pre-empted by the state statute. (*Id.*) Additionally, in January 2025, a different Superior Court judge issued a decision upholding an ordinance regulating STRs, enacted by the Town of Exeter, upholding that Town's ordinance – see *Mark Hughes & Tonya Hughes v Town of Exeter Zoning Board of Review et al.*, No WC-2024-0058 (R.I. Super. 6 January 2025) – [Superior-WC-2024-0058.pdf](#). While the Exeter case involved a different set of circumstances and local regulations (ie, whether a special-use permit should have been required for the property owner to be able to conduct STR uses of the property), both decisions cite to §42-63.1-14(a) in their analyses of the parties' pre-emption arguments that the state statute does not allow towns to have “blanket prohibition[s]

on short-term rental[s]”. (*Id.*). However, those two decisions raise an important distinction – that the state statute creates a right to advertise STRs on hosting platforms, but does not necessarily create a right to use property as STRs. This distinction was why the Court in the Exeter case ruled for the Town, because, unlike the Narragansett ordinance, the Exeter ordinance does not expressly restrict a property owner’s right to advertise their property for STR use.

Newport has been enforcing its short-term rental regulations through quasi-criminal enforcement actions in its municipal court against property owners both for conducting STR uses without having a valid guesthouse registration permit (which owners cannot even qualify for in any residential zone unless the use is part of a “Home Occupation” use where the owner resides in the property full time or unless the City has on file a preexisting Special Use Permit) and also for simply having advertisements posted on a hosting platform website. These issues were the subject of a number of recent Superior Court decisions issued by a different judge (eg, *City of Newport v Chubby Hosp., LLC*, No N3-2023-0287A, 2024 WL 401592 (R.I.Super. 26 January 2024) in which that Court held that there was no direct pre-emption or implied pre-emption issue with Newport imposing additional registration requirements at the local level and pursuing enforcement actions against property owners for having advertisements posted online without having obtained a local guesthouse registration permit.

Outside of Rhode Island, other jurisdictions have also produced recent court decisions involving the pre-emption doctrine; for example, in a recent Hawaii case, a court adjudicated a dispute as to whether a state statute pre-empted municipal ordinance restrictions (see *Hawaii Legal Short-Term Rental All. v City & Cnty. of*

Honolulu, 709 F. Supp. 3d 1141 (D. Haw. 2023)). Another common issue which is litigated in the context of STRs is when there is a lack of specific zoning ordinance provisions and regulations governing STRs, or when there are ambiguous local ordinance provisions. For example, the Connecticut Supreme Court held in one recent decision that a zoning regulation, which allowed long-term rentals of single-family dwellings and defined “single-family dwelling” as a dwelling “occupied exclusively as a home or residence for not more than one family” did not exclude the use of a single-family home for short-term vacation rentals (see *Wihbey v Zoning Bd. of Appeals of Pine Orchard Ass’n*, 350 Conn. 87, 323 A.3d 324 (2024)). In this Connecticut case, the definition of “single-family dwelling” did not clearly and unambiguously mean that only long-term rentals of such dwellings were permitted, but reasonably could be interpreted to mean that only structures designed and used as houses or dwellings for occupation by a single family at a given time were permitted. Other court decisions often involve various constitutional questions, including whether a local regulation of STRs constitutes a regulatory taking, violates due process rights, or violates the contracts clause.

As municipalities throughout Rhode Island and the country continue to wrestle with how to validly regulate STRs, legal disputes and zoning challenges will continue to arise. Rhode Island has the added distinction of the state statute which seems to validate property owners’ rights to advertise on hosting platforms, although this issue continues to be a source of contention. Practitioners representing property owners who are using, or intend to use, property for STRs should, in addition to reviewing the local ordinance provisions in conjunction with prevailing statutes and caselaw, continue to monitor ongoing litigation regarding the topic and how it may impact STR property rights.