

Chair O'Brien, Vice Chair Gavarone, Ranking Member Smith, and members of the Senate Local Government Committee on Housing, my name is Yiwei Cheng and I'm from Cincinnati, OH. Thank you for allowing me to testify in support of SB 104.

Thank you for continuing to support this cause for the short term rentals in Ohio. This legislation has been worked on with input from many groups and I'm really glad that changes short term rental owners have recommended have been added. Today I would like to share my personal experiences as someone who owns short term rentals in Ohio for over 5 years since 2019. I want to tell you what is actually happening in local townships and cities that makes it necessary to have this bill passed. I want to preface this by saying that I am not against regulation – but I want reasonable and fair legislation.

Just a little bit of background on me, I moved to Cincinnati for work in 2018. In 2019, I accidentally got into short term rentals because I had a lease on an apartment I couldn't get out of and I had just purchased a house to live in. To avoid making 2 payments, I decided to try out Airbnb because I heard my coworker talking about renting out his house and how much he was making to pay his mortgage. At the time, I had no idea what I was doing and did everything wrong – but I was able to see how I can make additional income with short term rentals. Since then I worked full time and invested & managed short term rentals at the same time until I could quit my job and do this full time. Now, short term rentals is how I am able to support my employee, myself, and other cleaners in the area. Even now I still rent out my own house to help pay the mortgage.

Over the years, I have seen lots of changes throughout Cincinnati, Ohio, and the US. Lots have changed just in the last 1-2 years. City of Cincinnati allows STR, but there are other areas in the Greater Cincinnati area that do not. Short term rentals has the same residential use as a single family home like a long term rental. It is not a hotel in any way – from infrastructure to ownership, financing, zoning. The only similarity is that guests stay and leave.

Over the last 3 years, two other owners and I have spent over \$100,000 in legal fees going through 2 courts of appeal from Hamilton County up to 1st District Court of Appeals on a case that should not have even gone to court. It is the most ridiculous way to spend \$100,000 in my opinion, but why did we have to go to court? In 2020, I bought a house in Symmes Township to rent out. The zoning code has not been changed for years, and there is nothing in the code regulating rentals. Because hotels are not allowed in residential areas, the township decided to interpret their zoning code that STR is a hotel so we could not operate. We had to go to court to argue why we should not be classified as a hotel per the zoning code. Then they proceeded to change their zoning code to allow STR as a residential, conditional use because “they will deny all permits” – captured on the record in public hearings. As a matter of fact, I really encourage you to watch the oral arguments in the 1st District Court of Appeals (linked below) to see how the Township's lawyer cannot explain why long term rentals are allowed as residential use but short term rentals are not under their own zoning code. I'm so grateful that the 1st District Court of Appeals see the injustice and unreasonable arguments from the Township and unanimously ruled in our favor.

This is just an example of what is happening in multiple townships, to multiple people. Often times, the owners give in and stop. There are and will be more similar situations. As a matter of fact, this recently happened to West Chester Township after a 6 month moratorium.

Local governments are arbitrarily interpreting and passing unreasonable regulations, bullying homeowners to give up on renting short term, knowing that many are unable to fight for their property rights due to expensive

legal fees. The Township use their insurance to pay for legal fees, so there was no motivation for them to stop. Passing SB 104 will prevent local governments and townships from arbitrarily making decisions or trying to legislate through the board of appeals as they did in my case, or in other ways that frankly make no legal sense. Assisted living, group homes for people who got out of prison or starting over, renting by the room are all allowed, so why not allow someone to stay shorter? I don't see how this use is worse than any of the other residential uses. Responsible hosts do not disturb the neighborhoods - the neighbors always say "I don't want different cars in the driveway" or "they don't background check their guests". Having different cars in my own driveway is not illegal? And if a sex offender signs a 1 year lease in the neighborhood, that would meet the requirements and be preferred?

I encourage the bill to define short term rentals (STRs) as its own category as a residential use and include all different ways to prevent bans outside of a straight ban such as requiring certain lot size, zoning type, number of leases, occupancy rules, unreasonable requirements that do not apply to long term rentals, etc.

Secondly, there is a misconception that short term rentals are not paying their fair portion of lodging tax. A belief that hotels are paying all the lodging taxes and STRs just don't pay anything and it's unfair.

STRs are not getting credit for the taxes they are paying, just because it's not labeled officially as a lodging tax and going to the convention center and visitor's bureau. Just to give some examples, City of Cincinnati levy a 7% lodging tax for STRs while hotels pay 4%. Columbus has 5.1% tax for STR and Hocking Hills - 6%.

For the last 6 years, STRs have been paying millions of dollars annually to cities and local government like Columbus and Cincinnati. To say that local government has been missing out on income and STR is not paying anything is just not true.

I fully support the 7.5% cap on lodging taxes in the SB 104 amendments and no sales tax for STR.

STR owners are mostly small property owners, people who have a full time job and want to build additional income for their family, or depend on the rental income fully to live on. The owners are not Wall Street hedge funds, Blackrock, or private equity firms. They don't have deep pockets nor can they support hundreds of thousands in operating costs.

- Based on data from Airbnb & VRBO, ~40% of the owners just have 1 property.
- Another ~40% have between 2-20 listings. In total ~75-80% of hosts are local small businesses in the area.
- ~56%, almost half, of hosts are women
- All the other workers that support short term rentals like cleaners, handyman, lawn care, are all small businesses local to the area (vs companies that support hotels)

STR property owners cannot pay for more taxes. They are paying their fair share for what they are making in revenue. Yes, the guests technically pay for the lodging taxes, but there is a point at which guests will not pay more, and the owners will have to make up the difference. Just like the huge increases in tariffs, there will be a point at which consumers will not buy. Taxes will price STRs out of the market. Just to run some numbers for you – if all taxes were added for 1 night of \$100 with a \$70 cleaning fee, the guest will have to pay 14-15% platform fees, 11.5% of city/county lodging taxes, and 7.8% of sales taxes. The total will be 33.3% increase vs the 19.3% for hotels. How is that a level playing field?

On top of that, owners are paying property taxes at current rates. Meanwhile, hotels are getting tax breaks on their properties. For example, the Lytle Park Hotel in Cincinnati pays \$177k in property taxes per year on a market value of \$21million according to the Auditor's site. That is less than 1% of the value. Just because the taxes current STR owners are paying are not labeled "lodging taxes" and not going to the convention center & visitor's bureau, it doesn't mean they aren't paying taxes. I guarantee that owners are paying more than their fair share of taxes to the government. How the money is allocated should not be a reason for short term rentals to pay more taxes because it doesn't fall in the tourism bucket.

Regarding sales tax, you will hear so many opinions on this. Let's go back to why sales taxes were levied in the first place. Sales taxes are added to hotels because they provide services - like concierge, 24/7 front desk, breakfast provided, meeting rooms, room service food delivery, etc. Short term rentals do not provide services like hotels do, do not sell products like retailers, and so should not have to pay sales tax.

Lastly, short term rentals have minimal impact on affordable housing. Over the last few years, big cities like SF and NYC have banned STR because it supposedly took housing inventory away from affordable housing. However years later, the numbers are out. Housing prices are still high. Rental rates have not stopped growing. If anything, the decline in tourism hit their local restaurants and shops that used to be near short term rentals harder. Studies done between 2019 and 2021 show that increases in housing prices during the pandemic and rental rates are largely created by other factors, like local preferences/remote work, rather than short term rentals. As a matter of fact, cities that previously banned short term rentals like Aspen, NYC are now looking into adding them back in. Having short term rentals is a benefit, not a nuisance.

If the goal is to level the playing field, then we need to set boundaries for local governments to prohibit bans on short term rentals through various, creative zoning rules, put a cap on taxes for short term rentals to make it sustainable for the industry and not tax it out of existence, have local police support short term rentals the same way they support hotels, allocate spend on marketing for short term rentals through the convention and visitor's bureau, include short term rental representation in the convention center & visitor's bureau. Leveling the playing field is not just adding sales tax and lodging taxes at face value.

In conclusion, I support SB 104 and I encourage you to pass SB 104. It will not take away the local government's sovereignty; it just gives them guidance and boundaries to regulate or legislate within if they wish to.

Thank you so much for your time to listen.

References:

1st District Court of Appeals Oral Arguments -

<https://www.youtube.com/live/3POR85YLZe0?si=pT5hhHOGAMJJutWm&t=780>

Case - 7/31/2024 C-230668 Decision

https://firstdistrictcoa.org/wp-content/uploads/2024/07/C-230668_07312024.pdf

Columbus STR Taxes

<https://www.columbus.gov/files/sharedassets/city/v/1/business-and-development/str-faq-06-28-2024.pdf>

Cincinnati STR Taxes

<https://www.cincinnati-oh.gov/finance/short-term-rental/>

Example of STR Restrictions

https://www.milfordohio.org/departments/planning_and_zoning/short_term_rentals.php

If you are interested in operating a short-term rental in the City of Milford you will need to obtain a short-term rental permit from the City. Short-term rental property is defined as a dwelling unit containing not more than four sleeping rooms that is used for and/or advertised for rent for transient guests for a period of less than ninety consecutive days.

- Residential non-owner occupied short-term rental property is prohibited. Owner must occupy the dwelling unit if it is located in a residential area. This means that in a building containing more than one unit, only a unit that is occupied by the owner would be eligible for a short-term rental permit if it is located in a residential area.
- A residential short-term rental property is not permitted within 300 feet of another residential short-term rental property.
- No more than 30 short-term rental properties are permitted in the City per calendar year.
- One short-term rental application form is required for each dwelling unit.
- Permits must be renewed yearly by January 15th.