

## Shakeup on Short-Term Rentals: Pennsylvania Supreme Court Rules on Airbnb and Homesharing

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AirBnb, HomeAway and other online homesharing platforms continue to rise in popularity as a unique method for tourists to “live like a local” for a few days’ time in a new city. Homesharing platforms operate to the benefit of travelers and homeowners, but the Pennsylvania Supreme Court held in a new opinion that such “purely transient use” of a single family home in a residential zoning district was in violation of a local zoning ordinance.

In *Slice of Life v. Hamilton Township Zoning Hearing Board*, the Court was required to determine whether the exclusive use of a home as a short-term rental in a residential zoning district was permitted as a Single Family Residential use. No. 7 MAP 2018; 2019 WL 1870562 (Pa. Apr. 26, 2019). The Township issued an enforcement notice to Slice of Life, based on the owner’s use of the home “as [a] Hotel and/or other types of transient lodging.” The home is located in the Township’s Zoning District A, which allows “single family detached dwellings” as a permitted use. The owner testified that he did not live at the Poconos home; he advertised it online for rental; and it was rented out approximately twenty-five weekends per year.

The Zoning Hearing Board and trial court held that the home was being used for a short-term transient lodging rental business, in violation of the zoning ordinance. The Commonwealth Court reversed and found that because the zoning ordinance did not define the term “transient lodging,” the ordinance had to be interpreted in favor of the owner and against any restriction on the use of his property.

The Pennsylvania Supreme Court strongly rejected the analysis of the Commonwealth Court and reinstated the opinion of the Zoning Hearing Board, as affirmed by the trial court. The Court focused on the zoning ordinance’s definition of “family,” which included the term of art “single housekeeping unit.” The Court reiterated its finding from *Albert v. Zoning Hearing Bd. Of N. Abington Twp.* that a “single housekeeping unit” must be “sufficiently stable and permanent so as to not be fairly characterized as purely transient.” 854 A.2d at 410 (Pa. 2004). The Court recognized that single family residential zoning districts are designed to foster a sense of community and cultivate relationships among neighbors. Short-term rental properties in these districts negatively impact the character and stability of the neighborhood. Because Slice of Life’s use of the home as a short-term rental was “purely transient,” the Court held that the use was not as a “single housekeeping unit” and therefore was not a permitted use in the zoning district.

Supporters of AirBnb and homesharing may interpret this opinion as a setback, but whether a short-term rental of a home is a permitted use will depend on the specific language of the zoning ordinance which applies to the municipality. Owners who list their home for rent on homesharing platforms should carefully review their local zoning ordinance to determine if the rental is permitted, based on the definitions applicable to the zoning district in which the home is located.

Similarly, local elected officials who desire to regulate the operation of short-term rentals in certain zoning districts should review their current zoning ordinance and consult with their municipal solicitor as to whether amendments are needed.

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\*Katherine’s prior article on municipal regulation of short-term rentals was cited by the Pennsylvania Supreme Court in its opinion. 2019 WL 1870562 at \*9.