

March 3, 2020

Comments on Proposed Ordinance 58895 re: Tourist Rooming Houses

From: Amanda Mott, District 13 Resident and Current Tourist Rooming House Licensee

Members of the Plan Commission, Board of Public Health, Alders, Mayor and Staff:

My husband and I started renting our house as a Tourist Rooming House (TRH), through Airbnb, about 3 years ago. During that time, we have done a lot to comply with city requirements including paperwork, undergoing 3 inspections and interacting with City staff while hosting over 500 guests from approximately 25 countries around the world. We have made a conscious effort to fully comply with all City requirements and I am not aware of any compliance deficiencies or complaints against our TRH. I have lived in the neighborhood for nearly 10 years, my husband 20 years. We care strongly about making our neighborhood and the city a better place for everyone.

I have thoroughly reviewed the proposed ordinance and intend to focus my comments on the following: (1) Process; (2) Drafters Goals; and (3) TRH Perception. I intend to show that the city's goals could be accomplished in myriad ways, that current draft ordinance should be tabled, and more time should be taken to consider alternative options to accomplish the city's goals while utilizing stakeholder input. Many of my suggestions materialized through reviewing other cities ordinances. I tried to focus on cities of comparable size that also contained flagship universities.

(1) Process

As far as I am aware, this ordinance was drafted as a result of complaints made against a few TRHs – specifically, the house at 5030 Marathon Drive. As I am sure you are aware, citizens reach out to our public officials when problems arise. Rarely, and unfortunately, do our public officials get praise for their dedication to making our city a better place and the endless hours consumed by these efforts. Because, it appears this ordinance was drafted in response to complaints, I do not think the ordinance drafters have considered the many positives TRHs bring to the city. The neighbors of the Marathon Drive property are upset. Maybe their concerns are valid. It is not my place to judge as I have not experienced what is happening at this property. But I do know many TRH hoses who bring good to their neighborhoods.

I believe the city should have used a more inclusive process to create the proposed TRH ordinance. As far as I know, not a single TRH licensee was consulted as part of this process. Many other cities created stakeholder groups to update their TRH ordinances to address similar issues that Madison is facing. These groups included citizens, TRH operators, businesses, tourist interest groups, city officials and elected representative. These cities have gone to great lengths to ensure every voice is heard to craft an ordinance that works for all impacted by these rentals. I believe this process would be helpful for Madison.

Request: I request that the city table the proposed ordinance and create a working group to craft legislation that works for all interested parties.

(2) Drafters Goals. The following addresses my interpretation of the drafter's goals via the drafter's analysis:

a. Enforcement Challenges - Public Health License Requirement

- i. It is my understanding that most Airbnb operators comply with the licensing requirement. In fact, the Public Health of Madison & Dane County PowerPoint presentation entitled, *How to Get Licensed: Short-Term Rentals in Madison*, shows that since the city began increasing compliance efforts in November 2017 the percentage of licensed operators has increased from 11% (August 2017) to 68% (April 2018). That's a 57% increase in only 9

months. I assume compliance has only gone up since then. This shows the city's current efforts are achieving its compliance with licensing goal.

Proposal: To increase compliance, brainstorm different ways to obtain information on who is registered on the air bnb website. *Tip:* Review what the City of Portland does to obtain information about those renting via Airbnb.

b. Enforcement Challenges - Paying Room Tax

- i. It is my understanding that Airbnb has an agreement with the State of Wisconsin and the City of Madison to collect and remit room tax to the state and the city. Matt Tucker raised concerns that this agreement may stop soon. I am curious how this could be since the state implemented a law through 2019 Act 10 and Wis. Stat. s. 66.0615(5)(a) that requires a lodging marketplace to "register with the department of revenue, on forms prepared by the department, for a license to collect taxes imposed by the state related to a short-term rental and to collect room taxes imposed by a municipality." The lodging marketplace, after receiving the license must collect sales and use tax and forward those amounts to the department of revenue and the municipality. A lodging marketplace is defined in Wis. Stat. s. 55.0615(1)(bs) as "an entity that provides a platform through which an unaffiliated 3rd party offers to rent a short-term rental to an occupant and collects the consideration for the rental from the occupant."

Solution: Already resolved via 2019 Wisconsin Act 10. Ensure Airbnb complies with Wisconsin law.

c. Enforcement Challenges - Compliance with Applicable Zoning Regulations

- i. Although this concern does not apply to our TRH, I do know that some interested parties are concerned that an accessory dwelling unit will not qualify for the primary residence definition. In my research of other cities, I found that many of these cities allow ADUs to be rented through short term rental platforms. Some have allowed rentals in both the primary residence and the ADUs. Others have allowed rentals one or the other.

Suggestion: Consider allowing ADUs as TRHs.

- ii.
- iii. Thirty-day limit when operator not present. I did not see another city that had this 30-day limit. Some had a 60-day limit, while others had a 90-day limit. I also believe that a co-host should be allowed to stay on site if the property owner is out of town to ensure things run smoothly. For example, my 21-year old daughter has stayed at our place while we are on vacation and taken incredibly good care of our guests and the property while we were away.

Suggestion: Take more time to discuss options around the day limit where no owner is present, as well as allowing a co-host to stay onsite while the owner is gone, and therefore not have those days count towards the days no owner is present.

- iv.
- v. Guest Registry. Those who operate through the air bnb website can export guest names, dates of stay, room they stayed in, date booked and telephone number.

Suggestion: I suggest you allow Airbnb operators to use the records from the platform and add a column with the guest's phone number and another noting whether the operator was home or not during that stay.

- d. **Confusion Over What Regulations Apply and Who is Responsible for Enforcement.**
 - i. The drafter's analysis states that there is confusion over applicable TRH regulations and who is responsible for enforcement.

Suggestion: Draft an FAQ page and guidance brochure. Many other cities have comprehensive FAQs and brochures.

- e. **Centralizing TRH Requirements into one ordinance.**
 - i. Drafters claim that by creating this annual permit, the ordinance centralizes TRH requirements into one ordinance. I agree that the various ordinances are references in the new ordinance, however the actual requirements remain spread through various ordinances.

Suggestion: I believe a comprehensive FAQ and guidance document would be useful in conveying TRH requirements.

- f. **Ability to enforce and penalize**
 - i. Drafters state that this proposed ordinance will help them better enforce compliance with TRH rules. I believe that this ordinance is drafted to penalize the bad actors. An unintended consequence is that it also penalizes the good actors, who are in the majority.

Suggestion: Table this ordinance and work with the stakeholder group to come up with other ways to penalize bad actors. Some ideas I have are to: (1) utilize the chronic nuisance ordinance which already allows for the city to act against nuisances occurring at tourist rooming houses; and/or (2) make penalties and actions more specific (for example, some cities allow the city to kick TRH tenants off the property if the property owner is not acting in compliance with the rules, while other cities, such as Columbus, OH, have very detailed penalties specific to various violations including: grounds for permit denial; objection, revocation and suspension of STR permit; hearing, appeals and remedy process; authority to conduct inspections; discrimination prohibited; and short term rental penalty— *see* Columbus Ordinances ch. 598). Additionally, a mediation process could be useful. I believe that these methods would be more successful in penalizing bad actors without also penalizing those who are in good standing and have been for years.

(3) Perception

- a. **Air bnb contacted hosts to come out in opposition to the ordinance.** This is false – at least for my husband and I and other hosts I have spoken with. In fact, we reached out to Airbnb for assistance and didn't hear back from them at all.
- b. **The Tourist Rooming House agency has expanded and changed.** I would agree that it has changed. However, STR availability has decreased since November 2017 when the city began increased compliance efforts the number of STRs has decreased by more than half from 451 (November 2017) to 211 (April 2018) (*see* Public Health presentation mentioned above).
- c. **Air bnb operators are just in this for the money.** I am not going to deny that becoming an air bnb operator has helped my financial situation. But that has been in lieu of getting a second job. Becoming an air bnb operator has allowed me to pay down my significant amount of student loan debt, pay my mortgage, make improvements on my house, and maybe go out to eat more than once per month. It is by no means making me rich, but it is allowing me to feel more comfortable. Additionally, I believe we are providing a wonderful service to the city, by providing affordable housing for not only visitors from out of town, but family visiting sick family members people visiting for the holidays. people going through divorces, people coming for events that bring the

city a lot of money, people coming to visit the university, people coming here for job interviews, people moving here for a new job while looking for housing, among other things. We take pride in the fact that these people can have a personalized experience. We can offer them advice about places to visit, provide history and insight on the city and overall, be great ambassadors of the city.

- d. **Sedona, AZ.** Many times, throughout this process I have heard how Madison has been compared to Sedona, AZ. First, Sedona has a population of 10,336 (2017). Madison has a population of 255,214 (2017). Madison is the state's capital and has a flagship university. Sedona does not have a large university and is not the capital. We are targeting two completely different markets. Further, Arizona, in 2016, passed legislation that prohibited Arizona municipalities from restricting and regulating short term rentals. Wisconsin has always allowed municipalities to regulate TRHs and Madison has been doing so for some time. To compare Madison to Sedona doesn't work.

Other

- (1) **Fees.** The city of Madison fee structure for TRHs is outrageous. In reviewing many other cities, the fees charged are hundreds of dollars greater in Wisconsin. This fee structure is prohibitive for those who want to rent their houses during the busiest times in Madison, such as during CrossFit games.

Suggestion: Develop a tiered fee structure depended on how many days per year you want to rent and how many rooms.

- (2) **Inspections.**

- a. Requiring two inspections is a lot for both TRH operators and city staff.

Suggestion: If both Public Health and Zoning want to inspect, combine the inspection with both staff coming at one time, or train a single staff person to perform inspection of all health and zoning issues.

Note: Many other cities allow for "self-inspection" and certification.

- b. The 48-hour inspection provision is overly broad.

Suggestion: Narrow this to be applicable only if there has been a known violation of the ordinance, if there is reason to believe of violation, or if a certain amount of complaints have been made against the property.

I thank you for your time in reviewing my comments and concerns. Thank you for your work on this legislation. I do hope you will consider tabling the current proposal and instead, create a stakeholder group to develop legislation suitable for everyone.

Sincerely,
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