

Short Term Rental Legislation Update March 21 2024

With the considerable misinformation circulating the community it is time to set the record straight.

The Directors did not have the luxury of postponing any votes on this motion at the Board Meeting of March 13th 2024.

It is unfortunate that the surveys for Short Term Rentals were created well after the March 13th 2024 Board Meeting vote.

I would like to be very clear that Directors as of **March 8th 2024** when we were first aware of this agenda item and on on **March 13th 2024** when we were required to vote the Directors did not have an opportunity to ask key critical questions to the Province so that we could better understand some of the caveats to this legislation and in fact we are still waiting for the province to respond to the latest questions which have just been answered as of **March 20th 2024**.

Short term rentals in Area D will still need to register with the province regardless of whether Area D had **opted in or not**. By not **opting in** at this time it gives us the ability to fully understand all the implications of the **Primary Resident Requirement** and what other **impacts** this new **legislation** will have on the community and its residents.

The recent survey shared out to Social Media in the community is a first step in gauging what the community desires.

I encourage everyone to read the questions and answers that were put to the Province.

By not opting in at this time Area D now has the time to make meaningful changes to Short Term Rentals and B and B Businesses which are also affected with this new legislation while still respecting the need to create more secondary suites and further rental accommodations in the community.

I am also very well aware that many potential landlords are very weary of long term rentals and for good reason.

Short Term Rental Questions Asked to the Province

Question 1:

Does the STRAA apply to short-term workforce housing, camp housing, student housing, or other short-term uses that are more residential in nature? Would a platform like locumhome.ca that provides STRs exclusively to health care professionals, be regulated the same as other AirBnB platforms.

Answer

- In the Short-Term Rental Accommodations Act (the Act) a short-term rental (STR) is defined as accommodation in the property of a property host, in exchange for a fee, that is provided to members of the public for a period of time of less than 90 consecutive days.
- This means that the Act does not apply to STR accommodations that are not open to the broader public such as dedicated workforce or camp housing, or accommodations available exclusively to guests registered as healthcare professionals.
- Student housing (or accommodation primarily for students or employees of an educational institution that is owned or operated by the educational institution or a non-profit organization) is also exempt from the principal residence (PR) requirement.

Other exemptions from the Act include:

- First Nations communities
- Hotels and motels
- Vehicles
- Tents or other temporary shelter

Additional properties or types of accommodations exempt from the principal residence requirement in effect May 1, 2024, in applicable communities include:

- Strata titled hotel or motels
- Properties where owners hold a fractional interest and cannot use the property as their principal residence due to mandatory provisions in a fractional ownership agreement
- Time share properties
- Home exchanges
- Lodges, i.e., accommodation that is provided by an operator of outdoor recreational activities (e.g., hunting, fishing, water sports).
- Strata corporation guest suites intended mainly for people visiting strata residents.
- STRs on farms

Question 2:

We understand that the Principal Residence regulations will limit the short-term

rental accommodation services being provided in one or both of the following: (a) in the property host's principal residence; (b) in not more than one secondary suite or other accessory dwelling unit that is in a prescribed location to the property host's principal residence. Regarding the suite, the Act defines a secondary suite as an accessory dwelling unit that is located in and forms part of a primary dwelling unit. Does this regulation limit the principal resident/host from dwelling in the smaller suite portion of the main home and renting out the larger part, as long as the host is residing in the home?

Answer

- The Act and regulations do not limit a host from living in a smaller secondary suite as their principal residence and utilizing the primary dwelling unit (larger part of a home) as a short-term rental.

Question 3:

With the Principal Residence Regulation, could owners who live in the smaller ADU on the property and provide an STR in the larger home be penalized/delisted?

Answer

- The Act and regulations do not limit a host from living in an accessory dwelling unit on the property as their principal residence and renting out the primary dwelling unit (larger home) as a short-term rental.

Question 4:

If there is a long-term tenant in place on the property, and the tenant is providing services such as guest welcoming and/or cleaning, could this long-term tenant be considered the host? The Act defines 'property host' as a person (a) who is legally entitled to possession of a property where short-term rental accommodation services are provided, and (b) who has responsibility for arranging the short-term rental offer. By this definition it appears that guest welcoming and/or cleaning may not meet the requirement unless the tenant is also the host registering and arranging for the short-term rental offer?

Answer

- The Act and regulations do not limit tenants from being property hosts on the property where they are renting.

Question 5:

If someone owns a property with two homes on it and has a long term renter in one

of the homes, what is the process for having that renter be registered as the host of the short term rental? Is that done through the BC Govt registry?

Answer

Questions #4 and #5):

- We recognize that there are arrangements where someone other than the property owner may be operating a unit as a short-term rental.
- For example, there are circumstances where a tenant with a long-term lease for a unit can offer their unit as a short-term rental. In this situation, the tenant could be a ‘property host’ under the Act as they:
 - are legally entitled to possession of the property (through a long-term lease agreement), and
 - have responsibility for arranging the short-term rental offer
 - There are also circumstances where someone other than the owner (such as an individual or corporation) manages a short-term rental on behalf of the owner.
- The Act includes the definition ‘supplier host’ which includes ‘property hosts’ as well as a person who, acting on behalf of, under the direction of or as agent of the property host, has responsibility for arranging for the short-term rental offer, which may include managing the short-term rental accommodation services.
- Both property and supplier hosts under the Act are the persons responsible for arranging the STR listing.
 - Solely cleaning or welcoming guests would differ from arranging an STR offer/listing.

As for the provincial registration process, more details on the provincial registry are forthcoming.

- By late 2024, the Province will establish a short-term rental registry.

Question 6:

SRD staff have indicated opting in provides support with compliance and enforcement. It is my understanding that after November when the primary residence regulation comes into effect, data on STR operators will be provided by the province to the SRD. If upon inspection of this data it is determined that an STR operator does not meet local zoning, the SRD would notify the Province and these properties would be flagged for delisting. Could you confirm this, or explain the provincial perspective on properties operating outside the bounds of local zoning please?

Answer

- To clarify, as different elements of the Act come into force, local governments will continue to be responsible for enforcing their own bylaws, while the provincial Compliance and Enforcement Unit will be responsible for enforcing the provincial Short-Term Rental Accommodations Act. This includes the new principal residence

requirement (in applicable communities) as well as requirements to display valid business licenses.

- Effective May 1, 2024, under the new provincial rules, hosts will be required to display a valid business license number on their listing (in areas where a business license is required by the local government).

- The Province is developing a data sharing system or STR Data Portal to support implementation of the overall Act, including enforcing requirements to post business licenses.

- Local governments with a business license requirement who wish to use the STR Data Portal will be required to sign an information sharing agreement with the Province to onboard to the system.

- In circumstances where an STR listing has not included a valid business license number on a short-term rental listing, there will be a process in place through the data sharing system for local governments to initiate delisting' requests to STR platforms to have the listing removed.

Note that requirements to display business license numbers apply in both communities where the PR requirement applies and communities exempt from the PR requirement.

Question 7:

If an STR is not listed on online platforms such as AirBnB could it still operate through private bookings or their own stand-alone website; will these operators be required to register with the Province and will they still be monitored for principal residence requirement?

Answer

- The Act applies to short-term rentals being offered to the public including:
 - Offers hosted by a platform, where people reserve and pay for the rental service (which may include for example, Airbnb, VRBO, Expedia, and FlipKey)
 - Offers on other web listing forums (which may include for example, Facebook Marketplace, Kijiji, and Craigslist)
 - Listings in classified ads in newspapers

This means that smaller STR platforms offering STRs to the public would fall under the Act and regulations and will need to comply with the new rules. This includes the future requirement to register with the Province.

Question 8:

In absence of business licensing, how will zoning compliance be confirmed?

- As stated above, local governments will continue to be responsible for enforcing their own bylaws, while the provincial Compliance and Enforcement Unit will be responsible for enforcing the provincial Short-Term Rental Accommodations Act.

Answer

- We are also aware that some local governments have more restrictive STR rules or zoning than the new Provincial rules. A process is under development for issuing registration numbers to STRs in these communities through the provincial registry.

More details on the registry process will be available at a later date.

Question 9:

With respect to Provincial enforcement measures, what tools will the province use to gain compliance (i.e. will there be enforcement beyond de-listing of STRs from platforms)? We have heard that the Province will be contemplating fines, how will this be implemented?

Answer

- A provincial Compliance and Enforcement Unit will be established in the Ministry of Housing, lead by a new Director, to support compliance and enforcement of the new legislation. This new team will support provincial monitoring, as well as education and information sharing regarding the new rules.

- The Act allows for the Director to order a Compliance Order in circumstances where a provision of the Act or regulations has been contravened.

- It also allows for the Director to issue Administrative Monetary Penalties in circumstances where:

- a provision of the Act or the regulations has been contravened
- there is failure to comply with an order of the director, or a demand issued by the director for production of records, or
- where there is a failure to comply by giving false or misleading information in an investigation.

- More information on Compliance Orders and Administrative Monetary Penalties will be available in forthcoming regulations.

- In October 2023, at the local level the Act also increased fines that local governments may use for bylaw enforcement as follows:

- Maximum fines for regional district bylaw offences prosecuted under the Offence Act will be increased to \$50,000.

- Maximum fines local governments may issue under the Bylaw Enforcement Ticket Regulations have been increased from \$1,000 to \$3,000 per infraction per day.

Question 10:

The Act defines ‘short-term rental accommodation service’ as the service of accommodation in the property of a property host, in exchange for a fee, that is provided to members of the public for a period of time of less than 90 consecutive days or another prescribed period, if any, but does not include a prescribed accommodation service. If this is the definition of a short-term rental, how does this differ from a definition of bed and breakfast?

Answer

- Bed and Breakfast accommodations are captured under the Act, meaning they will be subject to the PR requirement in applicable communities and will need to register when the provincial registry is developed.
- Traditional Bed and Breakfasts with the owner or host living in residence could continue to rent an unlimited number of bedrooms and up to one secondary suite or accessory dwelling unit, which aligns with the PR requirement.

Question 11:

In an Area which has opted in, for listings operating with a Temporary Use Permit but the listing is not a primary residence, would there be Provincial action?

Answer

- In jurisdictions where the provincial principal residence requirement applies, including any who wish to opt-in to the PR requirement, provincial enforcement of that will apply to the entire jurisdiction and will not be zone specific (with the exception of areas specifically exempt in the Act and regulations, such as farmland or ski resorts).
- For communities where the principal residence requirement applies, municipalities that currently regulate STRs may consider reviewing and updating business licensing or other bylaws as needed to align with what is permitted under the Act.

Question 12:

Have you determined drawbacks for which rural areas would not benefit from opting in? What do you visualize as the most beneficial reasons for opting in?

Answer

- Benefits of opting in or out of the principal residence requirement are dependent on the unique needs and circumstances of each community.
- The biggest advantage from opting-in is having provincial enforcement of the provincial PR requirement and broadly the biggest drawback is the inability to create tourist zones that allow commercial STRs to continue to operate (with the exception of strata hotels and timeshares).

- Also note that the regulations allow for eligible communities to opt-in to the principal residence requirement on March 31st of each year – so there will be future opportunities to opt-in future years.

- ***For clarity, the opt-in process allows exempt communities to opt-in to the principal residence requirement under the new short-term rental rules.***

Other parts of the Act will apply across BC, even in communities where there is no PR requirement.

For example,

- applicable short-term rentals across the province will be required to register through a provincial registry system in later phases of the program.

More details on that process will be available soon.

- Further to the above, for those areas that opt-in, the local government is not able to create tourist commercial zones to allow for STRs to continue to operate, nor create new zones to allow new STRs to operate outside of the principal residence requirement. So, would this mean that anything that is or will operate in a tourist commercial zone must be either a hotel, motel, or resort with cabin-like accommodations. How would this differ from someone using a tourist commercial zone with multiple residences to rent out as short-term rentals?

Question 13

Under the principal residence requirement, if a property is already commercially zoned will it be able to run STRs if the property is NOT the primary residence of the host?

Answer

- As stated above, in jurisdictions where the provincial principal residence requirement applies, including any who wish to opt-in to the PR requirement, provincial enforcement of that will apply to the entire jurisdiction and will not be zone specific.

- This means that the PR requirement would apply in commercially zoned areas.

- If a property or type of accommodation is not exempt under the Act or regulations, STRs would be limited to a host's principal residence plus one secondary suite or accessory dwelling unit on the same property.

Question 14

Will communities that opt-in to the principal residence be able to rezone properties to commercial and have it be used for STRs if the property is NOT the primary residence of the host?

Answer

- As with the response above, the PR requirement would apply in all areas including

commercially zoned areas.

Question 15

If a regional district electoral area opts out, does this mean they can disregard enforcing regulations on STRs in residential zones (if they choose), or will cooperation with the province to enforce on non-conforming STRs still be mandatory?

Answer

- In areas where the PR requirement does not apply, local governments may still regulate STRs in a PR (if they choose) at the local level. The Province will not enforce local regulations.

Note that some elements of the Act will apply to all communities across the province. For example, when the provincial registry is established, STR hosts will be required to register their STR, even in areas without a PR requirement.

- While the Province will be responsible for enforcing the new provincial rules, local governments will remain responsible for implementing their own bylaws at the local level.

Question 16

What information will the province require from STR owners for the short-term rental registry?

Answer

Additional details on the Provincial registry will be available in later phases of the program. The registry is anticipated by late 2024 or early 2025.

Question 17

What if any research has been done on the potential impact in the tourism sector, and the potential job loss that may arise from removing STRs, especially in areas where there are little hotels or hotels in those areas have been turned into housing initiatives for the homeless.

Answer

- The legislation provides a province-wide framework, with the principal residence rules designed to target areas with high housing needs, while ensuring smaller communities and tourist destinations that are more dependent on short-term rentals or lack suitable overnight accommodation can continue as-is, or opt-in if they choose to.

- The overall approach to short-term rentals aims to balance the goal of returning units of housing back to the long-term housing market, with the rights of property owners, and the needs of tourism dependent communities.

- We also recognize that the tourism sector has been impacted negatively by the current housing crisis and workforce housing is a top priority for many in the sector.

Question 18

What consultation process did the provincial government engage in with municipalities, electoral areas, tourism representatives, citizens and stakeholders beyond the hotel industry when drafting this legislation. It is many citizens understanding that this legislation was drafted utilizing the “McGill Report” which was funded by the BC Hotel Association (which should be a clear conflict of interest).

Answer

- The Province undertook extensive engagements with partners and stakeholders including Indigenous partners, other Provincial ministries, local governments, industry experts, tourism organizations, platform service providers and the Union of BC Municipalities (UBCM).
- In 2021, the Joint UBCM-Province Advisory Group on Short-Term Rentals released a final report outlining recommendations related to local needs and regulation of STRs. This report was also used to inform development of the legislation.

Question 19

Is the province aware of the federal GST implications for those forced to change their property’s use. For anyone who switches from a majority income producing use back to a personal or exempt use (like renting out as a long term rental) or selling, there would be a GST implication applied to the current market value of the property that gets triggered. Forcing a tax implication this large on homeowners can force them to sell or lose their home and put them at financial risk, has the province considered this collateral damage when creating this new legislation?

Answer

- We appreciate you raising this concern, which the program team is aware of.
- The Province understands that the principal residence requirement, and legislation broadly, may affect some homeowners – but today in BC there are too many people who cannot find a place to live.

