

## Prohibition Against Listing Apartments or Units on Home-Sharing Sites

On Friday, October 21, 2016, Governor Cuomo signed a bill banning the illegal advertising of apartment or units in Class A buildings on home-sharing sites such as Airbnb. The bill piggybacks on the 2010 law, which banned rentals of less than 30 days in Class A buildings if the tenant is not present. The bill, presented by Democratic Assembly member Linda Rosenthal, aimed to preserve affordable housing and tenants' rights, as well as cut down on illegal hotels in New York.

The law, adopted in Section 121 to the Multiple Dwelling Law (MDL) and Article 18 of Title 27 of the New York City Administrative Code states that it is unlawful for anyone to advertise the use or occupancy of apartments or units for purposes other than primary residence, and imposes fines for those who violate the law. "Persons" who violate the law will have to pay \$1,000 for the first violation, \$5,000 for the second violation, and \$7,500 for subsequent violations.

Based upon a review of the bill and its legislative history, persons seem to be defined as the apartment owner or shareholder, however, as seen with other city codes, sometimes enforcement is directed at the building owner rather than the apartment owner. The mayor's office is charged with enforcing the new law. It remains to be seen how this new law will actually be enforced.

The law also defines the term "advertise" as any form of communication for marketing that is used to encourage, persuade, or manipulate viewers, readers, or listeners into contracting for goods and/or services as may be viewed through various media including, but not limited to: newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites, or text messages.

While many welcome the new law, Airbnb immediately filed suit against New York State Attorney General Eric Schneiderman, the city of New York, and New York City Mayor Bill De Blasio. In its complaint, Airbnb alleges that the law is unconstitutional because it restricts free speech, violates the First Amendment, and the due process clause of the Fourteenth Amendment because notice was not given making it a strict liability crime to advertise these units or apartments even if the individual posting the advertisement did not know such advertisement violated state law.

While the city and state agreed not to enforce the law until the litigation is resolved (settlement discussions are ongoing), sponsors, developers, boards, and advisers of the board are advised to begin preparations (by either implementing or amending existing rules and policies) to comply with the new law.

For more information concerning the bill click [here](#).

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**To discuss any questions you may have regarding the issues discussed in this Alert, please contact a member of the Cozen O'Connor's Real Estate Department.**



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