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CITY AND COUNTY OF SAN FRANCISCO
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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 AIRBNB, INC.,

14 Plaintiff,

15 HOMEAWAY.COM, INC.,

16 Plaintiff-Intervenor,

17 vs.

18 CITY AND COUNTY OF SAN
FRANCISCO,

19 Defendant.
20

Case No. 3:16-cv-03615-JD

**DECLARATION OF KEVIN GUY IN
SUPPORT OF SAN FRANCISCO'S
OPPOSITION TO PRELIMINARY
INJUNCTION MOTION**

Hearing Date: October 6, 2016
Time: 10:00 a.m.
Place: Courtroom 11

Trial Date: Not set

1 I, Kevin Guy, declare:

2 1. I have personal knowledge of the matters stated herein, and if called and sworn as a
3 witness could and would competently testify thereto.

4 2. I am the Director of San Francisco's Office of Short-Term Rental Administration and
5 Enforcement ("OSTR"). I was appointed Director of OSTR in September 2015. Before I was
6 appointed Director, I worked for eight years in San Francisco's Planning Department. As Director of
7 OSTR, my duties include supervising the Office in its implementation and enforcement of San
8 Francisco's Short-Term Rental Ordinance.

9 3. San Francisco enacted Ordinance No. 218-14 in October 2014, and it became effective
10 February 1, 2015. Ordinance No. 218-14 amended Chapter 41A to establish a short-term rental
11 registry, and it allowed permanent residents of San Francisco, after registering with the Planning
12 Department, to offer their primary residences for short-term rentals. By requiring the host to actually
13 occupy his or her primary residence at least 275 days per year, San Francisco limited "unhosted"
14 short-term rentals to 90 days per year. A true and correct copy of Ordinance No. 218-14 is attached
15 hereto as **Exhibit A**.

16 4. In connection with the Board of Supervisors' consideration of Ordinance No. 218-14,
17 the Planning Department submitted a staff report, dated July 31, 2014. A true and correct copy of the
18 Planning Department's July 31, 2014 staff report is attached hereto as **Exhibit B**.

19 5. The Board of Supervisors Budget and Legislative Analyst prepare a Policy Analysis
20 Report dated May 13, 2015, and submitted the Report to Supervisor Campos. The May 13, 2015
21 Report addressed the impact of short-term rentals on housing in San Francisco. A true and correct
22 copy of the Budget Analyst's May 13, 2015 Report is attached hereto as **Exhibit C**.

23 6. San Francisco subsequently enacted Ordinance No. 130-15 in 2015, further amending
24 Chapter 41A. Among other amendments to Chapter 41A, Ordinance No. 130-15 created OSTR. A
25 true and correct copy of Ordinance No. 130-15 is attached hereto as **Exhibit D**.

26 7. San Francisco further amended Chapter 41A in 2016. These 2016 amendments, among
27 other provisions, require a Hosting Platform to verify that a short-term rental host is lawfully
28

1 registered with San Francisco before the Hosting Platform provides booking services for the host and
2 receives a fee for those booking services.

3 8. San Francisco's regulation of short-term rentals balances several important public
4 policies. By allowing permanent residents to offer their primary residence for short-term rentals, San
5 Francisco provides an income opportunity for residents. By regulating and limiting short-term rentals,
6 San Francisco at the same time preserves its residential housing stock. Restricting short-term rentals
7 to a host's primary residence eliminates a landlord's incentive to evict a residential tenant, or to hold a
8 vacant unit off the long-term rental market to engage in potentially more lucrative short-term rentals.
9 Also, by enforcing zoning and use restrictions, regulation of short-term rentals preserves the quality of
10 life and the character of residential neighborhoods.

11 9. Since San Francisco lifted the existing ban on short-term rentals in 2015, it has become
12 clear that effective enforcement of the short-term rental regulations requires regulation of Hosting
13 Platforms in addition to the individual hosts themselves. Information that OSTR is able to obtain from
14 hosts' public postings and from individual hosts is opaque. OSTR is unable reliably to ascertain
15 directly from hosts who advertise on short-term Hosting Platforms the hosts' registration status or the
16 number of days each host has rented his or her unit.

17 10. Airbnb, for example, used to provide a field for San Francisco hosts to include their
18 OSTR registration numbers in their short-term listing, but Airbnb has eliminated that field in or about
19 February 2016. Airbnb's elimination of the registration number field on host postings in San
20 Francisco has affirmatively frustrated OSTR's enforcement efforts.

21 11. Several methods are available for a Hosting Platform to verify a host's registration
22 status.

23 a. A Hosting Platform could require a San Francisco host to provide his or her
24 OSTR registration number at various points during the host's initial registration with the
25 Platform and/or during the booking process.

26 b. OSTR issues a physical registration certificate to registered hosts. A Hosting
27 Platform could require a San Francisco host to upload an image of the host's registration
28 certificate, along with the host's photographs of the rental unit. A true and correct copy of a

1 sample San Francisco Short-Term Rental registration certificate is attached hereto as

2 **Exhibit E.**

3 c. OSTR will make dedicated staff time available to any Hosting Platform seeking
4 OSTR assistance to verify a host's short-term rental registration.

5 d. The Planning Department maintains a public Property Information Map that
6 includes the current registration status of each address in San Francisco. The Property
7 Information Map is available at <http://propertymap.sfplanning.org/>. After entering an address
8 in the search field, a user can select "Planning Apps" to ascertain whether the property is
9 registered for short-term rentals.

10 e. OSTR is willing to engage with Hosting Platforms as partners to develop a
11 mechanism, such as an application programming interface (API), to facilitate real-time
12 automated verification of host registration numbers while preserving the integrity of the City's
13 and the Platform's respective private information.

14 12. OSTR interprets "lawfully registered" in the recent amendments to Chapter 41A to
15 mean that the host has obtained a registration number from OSTR.

16 13. OSTR interprets "the time the Residential Unit is rented for short term rental" in the
17 recent amendments to Chapter 41A to mean the time the Hosting Platform provides Booking Services,
18 not the time of occupancy.

19 14. I declare under penalty of perjury under the laws of the United States and the State of
20 California that the foregoing is true and correct.

21 Executed on September 19, 2016, at San Francisco, California.

22 
23 _____
24 Kevin Guy