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Zoning Concerns from Listing Your Property on Airbnb

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One of the topics generating a great deal of attention in zoning relates to people leasing their residential homes via Airbnb.

This issue came up in *Reihner v. City of Scranton Zoning Hearing Board* No. 256 C.D. 2017 (PA Commw. Ct. Dec. 8, 2017). The owners of a single family residential dwelling rented the three bedrooms on the second floor of their house via the Airbnb website.

The City filed a notice of violation alleging that the use was a “Bed and Breakfast” which was not allowed in the property’s zoning district.

Scranton’s ordinance defined a “Bed and Breakfast use” as follows:

“The use of a single family residential dwelling and/or accessory structure which includes the rental of overnight sleeping accommodations and bathroom access...and which does not provide any cooking facilities or provision of meals for guests other than breakfast...”

In this case, the 3 upstairs bedrooms clearly provided for overnight sleeping accommodations. The guests had access to the kitchen and thus there was a provision for cooking facilities. The Commonwealth Court held that the owner **was not** operating a Bed and Breakfast.

In order to be a Bed and Breakfast, two things needed to exist. The first is a residential dwelling providing a place to sleep, which was clearly present. The second, not providing any cooking facilities or meals other than breakfast, was not present. The guests had access to cooking facilities in the kitchen throughout the day. Thus, the property was not a Bed and Breakfast use as defined in the ordinance.

This issue, whether a residential dwelling is being illegally used, is becoming more common with the creation of websites such as Airbnb.

Airbnb and other websites have led to residential dwellings being used in ways not envisioned when zoning ordinances were drafted. Every case is unique as you must look to the specific definitions in the zoning ordinance to determine whether the use of a residential property is allowed.

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