

The legalities and liabilities of short-term rentals in Alberta

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Law360 Canada (October 28, 2024, 2:26 PM EDT) -- In recent years, the rise of online vacation rental platforms like Airbnb has revolutionized the travel industry worldwide. In Alberta, these rental properties have become increasingly popular given the flexibility and diverse range of accommodations available for those seeking an alternative to traditional hotels.

Although short-term rentals offer many benefits to travellers, they also have unique legal considerations, licensing regulations and the potential for serious liability issues.

Common types of short-term rentals



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While the landscape for these types of accommodations becomes more complex each year, these are some common properties seen in the short-term rental marketplace:

- **Accessory Dwelling Units (ADUs):** Some municipalities allow these secondary dwellings to be located or built within or on a primary residence (attached or detached). Depending on the local bylaws and regulations, these may be permitted to be rented out on a short-term basis.
- **Room or home rentals:** Popularized by online travel platforms like Airbnb or VRBO, these types of rentals offer a variety of accommodation arrangements, including a private room, shared room or entire home on a short-term basis.
- **Bed and Breakfasts (B&Bs):** An older form of short-term rentals, bed and breakfasts are often located in a historic or charming setting and offer travellers a personalized, homey experience. These hosts often provide meals and other amenities to guests.

Zoning and land use regulations

Any short-term rental host in Alberta (including those listing their property on a platform like Airbnb or VRBO) must comply with zoning and land use regulations. Many municipalities across the province

have passed bylaws regulating short-term rentals. Common restrictions include:

- a maximum length of each stay;
- a maximum number of rental units allowed per property;
- a requirement that the host obtain a particular licence, permit or pay an operational fee or tourism tax;
- safety standards, including fire safety and accessibility regulations;
- specific size and construction requirements, including minimum square footage, especially for Accessory Dwelling Units in new builds;
- a requirement for a host to provide proof of insurance; and
- a minimum and/or maximum occupancy rate or number of guests per unit.

Other municipalities may prohibit short-term rentals entirely in certain residential areas, such as designated heritage districts or single-family neighbourhoods.

Taxation and licensing considerations

As mentioned above, some municipalities have implemented licensing regimes for short-term rental operations. The requirements may vary depending on the location, size and property type. Common types are business licences (including a home-based business licence) or specific licences set out in local bylaws.

Short-term rental hosts are also typically required to pay tax on the property's rental income. Tax implications vary depending on the nature of the rental property and the frequency of rentals offered. Additionally, the host's Canadian residency status can significantly impact their tax obligations. Non-resident hosts may be required to pay a withholding tax, often deducted through the rental platform or property management company.

In addition to income tax, hosts may be subject to sales and goods and services taxes (GST), which may apply to the rental income or goods and services provided to guests (for example, cleaning or amenity fees). Municipalities may also impose their own taxes on short-term rentals, such as a tourist tax.

Short-term rental liability issues

While short-term renting can provide somewhat "passive" income generation for a property owner, it can also create serious liability issues. Common concerns are set out below.

Guest injuries

Short-term rental hosts are responsible for their guests' safety. If a guest is injured on a short-term rental property, the host may be liable for their losses or damages. This can include medical expenses, pain and suffering, property damage and lost wages.

To safeguard against significant financial loss caused by a guest's injury, hosts should take the following steps:

- conduct regular inspections of the property to identify and mitigate any potential hazards;
- ensure the host or an appropriate designated person is available to respond promptly to a guest's concerns throughout their stay;
- maintain the property in good condition and repair defects as quickly as possible;
- provide necessary safety equipment, including fire extinguishers, first aid kits and smoke alarms;
- have an emergency plan in place for responding to hazards such as fires, medical emergencies or natural disasters;
- clearly communicate the rental rules and guidelines to guests, including the location of safety procedures and equipment; and

- maintain adequate insurance coverage, including general and third-party liability, property and umbrella insurance.

Third-party claims and property damage

Short-term rental hosts can also be liable for incidents between guests and third parties, including neighbours or other people in the area. If a guest's behaviour injures a third party or damages a neighbouring property, the host may be responsible for compensating the impacted parties, particularly if they failed to take reasonable steps to prevent the incident.

Hosts may also be liable for damage caused by a guest to shared property, such as furniture, carpets or appliances in common areas of a multi-unit building. Hosts may be able to recover their losses through their insurer or a claim against a guest who intentionally or negligently causes property damage.

Negligent property management or other employees

Short-term rental hosts — particularly those who do not live on-site at the property — may hire property management services to assist with the rental's day-to-day operations. If a guest suffers harm or injury due to the negligent or intentional actions of the host's contractor or employee, the host may be liable. For example, hosts may be liable for failing to adequately instruct, train or supervise their staff or provide adequate security.

Litigation involving short-term rentals

In recent years, the Alberta courts have adjudicated many disputes involving the rights and obligations of short-term rental hosts, guests and municipalities. One significant area of contention has been the interpretation of zoning by-laws. Whether a court upholds or strikes down restrictions prohibiting or limiting short-term rentals depends mainly on the circumstances, including the bylaw's wording, the municipality's intent and the impact or concerns of the community where the short-term rental is located.

The host-guest relationship can also create certain disputes, including guest expectations of a property's condition, a guest's right to privacy and a host's duty of care in maintaining the property and safeguarding their guests' safety and well-being.

Many communities have raised concerns about short-term rentals and the impact on neighbouring properties' quality of life, disrupted by guests' noise and the frequency of rentals. In some cases, courts have ordered hosts to modify their rental operations or have upheld bylaws setting out regulations limiting short-term rentals' impact on surrounding properties.

The changing landscape of short-term rentals in Alberta

Short-term rentals, including those listed on Airbnb, VRBO and other rental platforms, offer a convenient and personalized option for travel accommodations unavailable in traditional hotels. However, these properties also present unique legal challenges for hosts posed by their communities, guests, and local government bodies.

By being proactive and keeping up to date on local and provincial licensing requirements, restrictions and tax laws, short-term rental hosts can continue to grow in this developing industry while protecting their investments from potential liability.

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