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INTEREST OF AMICUS

Tech:NYC is a non-profit, member-supported service organization representing New York City technology companies and innovation-friendly policies. Its engaged network of tech leaders works to foster a dynamic, diverse, and creative New York. Together with its members, Tech:NYC is committed to cultivating a technology community that furthers the public good. Tech:NYC brings together principled New Yorkers to support a successful technology ecosystem, attract and retain top-tier talent, and celebrate New York and the companies that call it home.

Tech:NYC has over 670 members, including Airbnb, Inc. (“Airbnb”). However, neither Airbnb nor HomeAway.com, Inc. (“HomeAway”) played a role in the drafting or filing of this brief. The positions here reflect issues important to Tech:NYC’s broader membership and the overall health and growth of the New York City tech ecosystem; they are not specific to any individual member. Of particular concern to Tech:NYC is how regulation affects nascent homesharing platforms and other small and growing startups, not necessarily how it affects more established platforms such as Airbnb and HomeAway. This case impacts Tech:NYC members’ interest in promoting responsible, pro-innovation regulation.

ARGUMENT

The Homesharing Surveillance Ordinance¹ (the “Ordinance”) is unconstitutional and preempted by federal law; it is also unnecessarily overbroad and invasive for the regulatory purpose it serves. While sensible homesharing regulation is needed, the New York City Council (the “Council”) went too far by enacting the Ordinance, which imposes unreasonable costs and burdens that stymie innovation, undermine economic growth, create complex compliance

¹ Local Law 2018/146, N.Y. City Admin. Code §§ 26-2101-5.

problems, and raise very real information privacy concerns. Therefore, Tech:NYC urges this Court to enjoin the Ordinance, allowing the Council and the New York State Legislature to enact lawful and more sensible regulations to help preserve New York City's affordable housing stock and crack down on illegal hotel operators while supporting innovation, entrepreneurship, competition, and user privacy.

I. THE CITY OF NEW YORK CAN IMPROVE ACCESS TO SAFE AFFORDABLE HOUSING THROUGH NARROWER, LESS-INVASIVE, AND MORE RATIONAL MEANS THAN ITS CURRENT UNCONSTITUTIONAL AND INVALID ORDINANCE.

In passing the Ordinance, the City of New York (the "City") had good intentions: to help consumers, businesses, and law enforcement officials better understand and integrate private homesharing into the City's goal of improving access to safe affordable housing. However, through a misunderstanding of the economics, technologies, and legal structures that govern homesharing, the City overstepped both its statutory and constitutional authority by imposing invalid and illegal requirements on this emerging economic system. Left to stand, the Ordinance would not only violate the U.S. Constitution, the New York Constitution, and the Stored Communications Act (all as argued by the Plaintiffs),² but also makes extremely bad policy, shoring up the incumbent status of entrenched actors in the homesharing and hotel industries³ and creating an unfair playing field by increasing barriers to entry for new innovative technological and community-based initiatives. As such, Tech:NYC urges this Court to adopt the arguments of the Plaintiffs and strike down the Ordinance, allowing the City – acting in

² Tech:NYC incorporates by reference the arguments set forth by Airbnb that the Ordinance is unconstitutional and preempted by the Stored Communications Act, 18 U.S.C. §§ 2701 *et seq.* (the "SCA"). See Pl. Airbnb's Br. 2-3, 14-30.

³ See *infra* Part II.

coordination with the State of New York – to revisit its approach in a smarter and legally permissible manner, such as those adopted by other cities and states around the country.⁴

II. THE ORDINANCE PLACES UNNECESSARY COSTS AND BURDENS ON NEW YORK CITY’S ECONOMY AND RESIDENTS.

A. The Ordinance creates barriers to entry for innovative companies and imposes unnecessary cybersecurity risks.

In addition to its constitutional infirmities, the Ordinance is simply bad policy. First, it creates barriers to entry which will deter entrepreneurs, inventors, and community groups⁵ from innovating and experimenting with new approaches to shared housing. The history of homesharing reveals many new and different ideas that have emerged over time to be tested – from Craigslist to couchsurfing.com to roommates.com to dozens of others.⁶ While mature and successful companies such as Airbnb and HomeAway can afford to track millions of user accounts, transactions, and data flows, many startup and community-based initiatives will not be able to do so in an affordable and efficient way. For them, the cost of compliance will be prohibitively high. Unlike registration-oriented regulations which impose requirements on hosts,

⁴ See *infra* Part III.

⁵ Community groups include non-profit organizations which facilitate connections between charity services and those in need. See *Simon Community App to Help Homeless Find Shelter and Food*, BBC (Nov. 27, 2014), <https://bbc.in/2R3yNwj> (describing the Simon Community app which helps homeless people in Northern Ireland find hostels and food banks).

⁶ See, e.g., Natalia Lusinski, *No Rent: My Life as a Couch-Surfer*, CHI. TRIBUNE (Apr. 15, 2015), <https://trib.in/2Ikk3oG> (explaining how couchsurfing.com has revolutionized the ease with which individuals can secure temporary shelter while they search for permanent housing, especially for those relocating to a new city); Joyce Cohen, *Just 18, and Singing for Her Starbucks*, N.Y. TIMES (Dec. 26, 2004), <https://nyti.ms/2xQDWih> (illustrating how roommates.com has helped young people moving to New York City afford long-term leases by connecting them with a network of prospective roommates); Kory Kroft & Devin G. Pope, *Does Online Search Crowd Out Traditional Search and Improve Matching Efficiency? Evidence from Craigslist*, 32 J. LAB. ECON., no. 2, 2014 (finding that Craigslist has improved matching efficiency in the housing market, thereby reducing the apartment rental vacancy rate).

the Ordinance directly imposes substantial barriers on every single homesharing platform in the New York City housing ecosystem (including fledgling platforms), thereby reinforcing the incumbent status of “traditional” players.⁷ This message is counter to the interests of the New York City Council members and those they represent, who have always relied on innovation, entrepreneurship, and a diversity of market players to help solve problems of scarcity. In encouraging prudent regulation of technology companies, Tech:NYC considers high barriers to entry and the risk of entrenchment of incumbent corporations to be real and pressing concerns.

Encouraging innovation requires the creation of a level playing field between incumbent businesses and new entrants.⁸ The Ordinance discourages competition by picking winners and losers, therefore threatening the health of New York City’s startup community. The City effectively endorsed the hotel industry by enacting the Ordinance. As Airbnb has argued in various public forums, the Ordinance was introduced with the support and even at the direction of hotel industry groups,⁹ which have significant influence at the Council.¹⁰ It is well documented that the hotel industry has engaged in coordinated political lobbying aimed at

⁷ See Pl. Airbnb’s Br. 7 (citing *The Hotel Industry’s Plans to Combat Airbnb, Pages from a 2016 American Hotel and Lodging Association Document Outlining Plans to Fend off Airbnb in the Coming Year*, N.Y. TIMES (Apr. 16, 2017), <https://nyti.ms/2R1OIAG>).

⁸ See STARTUP GENOME, GLOBAL STARTUP ECOSYSTEM REPORT 80 (2018), available at <https://bit.ly/2HsHWsL> (“To address these challenges and capture the full benefits of financial innovation, policymakers need to ensure that regulations encourage innovation in financial services and create a level playing field between incumbents and new entrants.”); see also Oliver Smith, *The GDPR Racket: Who’s Making Money From This \$9bn Business Shakedown*, FORBES (May 2, 2018), <https://bit.ly/2NIhQcr> (arguing, in part, that achieving compliance with sweeping regulatory regimes such as the GDPR often hits small companies the hardest).

⁹ See e.g., Sally Goldenberg, *Airbnb Would be Fined up to \$25K per Undisclosed Listing Under Controversial Council Bill*, POLITICO (June 5, 2018), <https://politi.co/2IhRWXh> (statement of Josh Meltzer, Airbnb’s head of policy in the Northeast, that the Ordinance was introduced “at the behest of the deep-pocketed, big hotel industry”).

¹⁰ Zoe Greenberg, *New York City Looks to Crack Down on Airbnb Amid Housing Crisis*, N.Y. TIMES (Jul. 18, 2018), <https://nyti.ms/2JEpAW2> (discussing the hotel industry’s campaign contributions to Council members).

curbing homesharing.¹¹ Instead of allowing the market to pick winners and losers, the hotel industry has impermissibly relied on New York City's legislative process to impose data-sharing burdens on homesharing platforms, thereby making it more difficult for homesharing platforms to operate. In the face of such burdensome disclosure requirements, only the big players – those who can afford compliance – will flourish. The irony is that in lobbying for legislation to injure Airbnb, the hotel lobby has fostered a regulatory environment which inhibits market entry for nascent homesharing platforms (i.e. small players), thereby essentially handing over the entire New York City homesharing market to established platforms like Airbnb.

Tech:NYC agrees with the City that the homesharing industry should be regulated to ensure consumer safety and preserve the affordability of city housing. Affordable housing advocates are concerned that homesharing platforms crowd out long-term rentals, which in turn limits the supply of rental housing and increases the rates of rentals for New Yorkers. These concerns are important. Still, there are regulatory and legislative tools that could meet these aims *without* stifling innovation. While New York City is a growing hub of innovation and entrepreneurship,¹² that growth is not a given. Investors, entrepreneurs, and technologists pay careful attention to the environments where they found their companies and pursue their dreams. Given the City's aspirations to provide fair and improved access to housing, it should be encouraging more competition and innovation in this area, not less.

Second, the Ordinance introduces unnecessary cybersecurity risks for New Yorkers who submit their data to homesharing platforms, as it demands that all homesharing entities collect

¹¹ See, e.g., Katie Benner, *Inside the Hotel Industry's Plan to Combat Airbnb*, N.Y. TIMES (Apr. 16, 2017), <https://nyti.ms/2oEhbdW> (board minutes from an American Hotel and Lodging Association meeting reveal a “multipronged, national campaign approach at the local, state, and federal level” involving lobbying politicians to enact homesharing regulation).

¹² See Richard Florida, *Is New York City the New Model for Startup Cities?*, CITYLAB (Nov. 17, 2014), <https://bit.ly/2xEgYvF>.

and store massive amounts of user data – far more than is necessary and for far longer than is needed. Again, while well-resourced companies like Airbnb and HomeAway have the capacity to comply with the Ordinance in a secure manner, the Ordinance is not limited to mature wealthy companies. Nascent startups and community housing efforts will also be required to collect, organize, and disclose data on hundreds, thousands, or potentially millions of individuals and, due to inexperience or budget constraints, may resort to unsecure, unencrypted methods of storage and disclosure for sensitive user data in order to cope with the high cost of compliance.

Even after the information is shared with the government, there are additional risks at stake. Among those who depend on short-term housing are immigrant communities and other vulnerable groups.¹³ Yet, under the Ordinance, disclosure of vast amounts of sensitive information on these populations would become mandatory, even when they are clearly staying within the bounds of the law. Given the current threats of federal government officials compelling disclosure of city data,¹⁴ the Ordinance places immigrant hosts and users in serious danger and will likely discourage them from seeking housing help even when it is free and available.

Furthermore, by imposing unnecessary cybersecurity risks, the Ordinance exposes nascent startups to potential legal liability. U.S. companies are rightfully increasingly concerned about incurring liability for data breaches.¹⁵ Startups seeking to minimize their potential liability for data breaches may choose to establish their roots in jurisdictions outside of New York City

¹³ See Kate Conger, *Airbnb Offers Free Housing to People Stranded by Immigration Order*, TECH CRUNCH (Jan. 29, 2017), <https://tcrn.ch/2jjVOOl>; see also Leigh Gallagher, *Airbnb Unveils a Platform for Housing Refugees*, FORTUNE (June 7, 2017), <https://for.tn/2rARwnT>.

¹⁴ See Tanvi Misra, *The New “Digital” Sanctuaries*, CITYLAB (Nov. 14, 2017), <https://bit.ly/2yBF5JU>.

¹⁵ See David Braue, *As Unencrypted Data Becomes “Negligence”, Business Leaders are Taking Encryption Strategy Away from IT*, CSO (Nov. 22, 2017), <https://bit.ly/2ObvggO>.

that do not compel disclosure of user data, ironically reducing the number of innovating platforms offering new access to housing.¹⁶

The threat of data breaches arising from the Ordinance's disclosure requirements is yet another cost of compliance which will fall on homesharing companies. Startups often struggle to comply with unclear and overly-broad regulations.¹⁷ Tech:NYC supports legislators in the difficult decisions they must make to reign in dangerous business practices in order to benefit the public good. However, such regulations must also be carefully and narrowly tailored to avoid creating a "chilling effect" on new growth and the emergence of new innovative models. The Ordinance is a clear example of such a regulation, placing the heavy burden of transmitting in a secure, encrypted manner sensitive user data for *all* users offering housing, including those who are acting legally.

B. New York City has a demonstrated interest in growing its economy both in the tech sector and otherwise.

By imposing on startups barriers to entry and unnecessary cybersecurity risks, the Ordinance will risk inhibiting the continued growth of New York City's tech ecosystem. This will have deleterious effects on New York City. First, inhibiting the tech sector is contrary to the mayor's "100,000 good-paying jobs" plan, which sets a goal of adding 100,000 well-paid, secure jobs in New York City over the next ten years, including 30,000 technology jobs (10,000 of

¹⁶ Furthermore, this Court should consider the risk to the public of unencrypted data disclosure. The disclosure of unencrypted data places citizens' constitutional right to privacy in jeopardy. In fact, legal exposure resulting from a lack of encryption is a major concern of U.S. corporations. Braue, *supra* note 15. Abroad, such legal exposure is an essential piece of the European Union's GDPR, which mandates using security measures like encryption to avoid fines. *See* General Data Protection Regulation (GDPR), Regulation 2016/679, 2016 O.J. (L119) 1 (EU). Unlike the GDPR, the Ordinance ignores the importance of cybersecurity and its relationship to the constitutional right to privacy.

¹⁷ Nicholas Elliot, *Where Fin-Tech Is Struggling with Regulation*, WALL STREET J. (Nov. 24, 2015), <https://on.wsj.com/2xFEIzj>.

which will be in cybersecurity).¹⁸ Under this plan, supporting technology jobs is a primary strategy for growing the middle class and combating income inequality:

Alongside [] rising inequality, there is tremendous disruption driven by technology that is challenging and changing the way businesses operate, and the skills New Yorkers need to secure the jobs of the future. . . . [The City] will specifically catalyze 100,000 quality jobs through City investments and direct actions. The following plan is a roadmap to meet that goal, to drive up New Yorkers' incomes and, together with investments in housing and schools, make New York a more affordable place for people to live and work. These jobs will pay at least \$50,000 a year or put people on a clear pathway toward achieving that level of wages. This will provide a new generation of New Yorkers the opportunity to pursue a middle-class career.¹⁹

Startups – and their ability to enter the market – are essential to the technology sector, which in turn is vital to New York City's overall economy. The tech economy already contributes roughly 326,000 jobs in New York City²⁰ and promises continued growth. New York City's tech ecosystem gained 76,000 jobs from 2006 to 2016.²¹ Additionally, 83% of New York City's technology companies plan to hire more talent in 2018 than in 2017.²² New York City's tech ecosystem comprises more than 7,000 startups, making it the second highest performing tech sector globally.²³ It is valued at \$71 billion²⁴ and has grown nearly twice as fast as the city's overall economy.²⁵

An additional way that the irresponsible curbing of homesharing damages New York City's overall economy is the Ordinance's injurious effect on the city's tourism industry.

Tourism is a central part of New York City's economy and is supported by innovative

¹⁸ CITY OF NEW YORK, *NEW YORK WORKS: CREATING GOOD JOBS* 31-32 (2017).

¹⁹ *Id.* at 8.

²⁰ STARTUP GENOME, *supra* note 8, at 142.

²¹ HR&A ADVISORS, INC., 2016 NYC TECH ECOSYSTEM (2017), available at <https://bit.ly/2CrTI3e>.

²² Julie Samuels, *NYC Tech Companies Are Hiring. Will The Talent Be There?*, TECH:NYC (May 23, 2018), <https://bit.ly/2OTMwUV>.

²³ STARTUP GENOME, *supra* note 8, at 142.

²⁴ *Id.*

²⁵ HR&A ADVISORS, INC., *supra* note 21.

homesharing platforms. In 2017, New York City welcomed 62.8 million visitors and anticipates a 3.7% increase to 65.1 million visitors in 2018.²⁶ This increase is attributable, in part, to the increased availability of lodging for tourists.²⁷ Historically, Airbnb has sought to address the challenge that cities face in housing an influx of tourists. In 2008, Airbnb initially gained popularity in Denver as an affordable short-term housing option for tourists attending the Democratic National Convention. A business that started as a way for a few friends to more effectively afford their rent – by renting out their loft space to city visitors – began to serve a dual purpose.²⁸ The company finally took off due to its ability to support massive economic activity on a city-wide scale. If New York City seeks to continue to encourage tourism, the next generation of innovative companies will be essential partners to growth.²⁹

Furthermore, the Ordinance is blind to the economic wants and desires of New Yorkers, an increasing and significant number of whom are eager to participate in homesharing. For the year ending in August 2017, for example, host revenue in New York City reached \$657 million (a 14% increase from the year before) and the number of listings reserved at least once in New York City reached 67,100 (a 4.5% increase from the year before and a 37% increase from the year before that).³⁰ It is unsurprising that a platform with the capacity to assist New Yorkers in supplementing their incomes by renting out their whole apartments or spare rooms – thereby enabling them to afford their leases – would gain such widespread popularity.³¹

²⁶ Press Release, The City of New York, Mayor de Blasio and NYC & Company Announce New York City Welcomed Record 62.8 Million Visitors in 2017 (Mar. 20, 2018) (on file with author).

²⁷ *Id.*

²⁸ Biz Carson, *How 3 Guys Turned Renting an Air Mattress in their Apartment into a \$25 billion Company*, BUS. INSIDER (Feb. 23, 2016), <https://read.bi/2wqzUws>.

²⁹ *Id.*

³⁰ DAVID WACHSMUTH ET AL., URBAN POLITICS AND RESEARCH GROUP, *THE HIGH COST OF SHORT-TERM RENTALS IN NEW YORK CITY* 9-11 (2018), available at <https://bit.ly/2DWjqlx>.

³¹ See, e.g., Ruth Fowler, *The Reluctant Airbnb Host: Why I Rent my Spare Bedroom to Pay my Own Rent*, GUARDIAN (Aug. 1, 2017), <https://bit.ly/2whQQTY> (telling the story of an individual

III. OTHER CITIES REGULATE HOMESHARING IN WAYS THAT ARE CONSTITUTIONAL, ADDRESS THE VERY SAME PUBLIC POLICY CONCERNS CONSIDERED BY THE COUNCIL, AND ALLOW FOR INNOVATION, COMPETITION, AND PRIVACY PROTECTION.

Many peer cities have successfully instituted homesharing regulations. Such regulations are typically built on a host-registration model, wherein hosts obtain advance permission through a registration and permit system before listing any properties on homesharing websites such as Airbnb and HomeAway. Host registration schemes provide sufficient transparency, enabling city officials to keep track of the number of units available for short-term rental. Furthermore, by limiting registration to primary residences (or by capping the number of units available for rental in multi-unit buildings), cities can preserve their long-term housing stock and prevent landlords ex-ante from running residential apartment buildings as illegal hotels.

Under Chicago’s Shared Housing Ordinance, for example, hosts must file a registration application and obtain approval from the Department of Business Affairs and Consumer Protection (the “Department”) before listing any short-term rentals. *See* Mun. Code of Chi. § 4-14-020(a) (2018). Under the Philadelphia Code, hosts who provide short-term rentals (defined as less than thirty days) for more than an aggregate of ninety days per year must obtain a “use registration permit” from the city, which enables such hosts to operate as a “Limited Lodging Home.” *See* Phila. Code § 14-604(13)(b)(.2) (2018). Berkeley similarly requires short-term rental hosts to register with the city and obtain a “Zoning Certificate” permit. *See* Berkeley Mun. Code 23C.22.040 (2018). From the perspective of city governments, registration schemes have the added benefit of enabling cities to collect tax revenue on short-term rentals. *See, e.g.*, Mun.

in Los Angeles who relies on renting out a spare bedroom in her home to be able to afford rent while going through a difficult financial time); Ameena Walker, *City Council Passes Airbnb Bill that Will Regulate NYC Host Activity*, CURBED (Jul. 19, 2018), <https://bit.ly/2QZCiDE> (telling the story of a New Yorker who legally rents a spare bedroom to supplement his limited income from disability payments).

Code of Chi. § 3-24-030(B) (establishing a 4% fee levied on short-term rental guests that goes toward services for the homeless); Phila. Code § 19-2400 *et seq.* (providing a mechanism for booking platforms to collect and remit Philadelphia’s hotel tax on short-term rentals); Berkeley Mun. Code 23C.22.050(H) (requiring hosts to submit a 12% transient occupancy tax).

Furthermore, these registration schemes typically provide permits only for a host’s primary residence. In Chicago, a host cannot list a single-family home or a unit in a multi-family home (defined as two to four units) unless such dwelling is the host’s primary residence. *See* Mun. Code of Chi. § 4-14-060(d)-(e). In multi-unit buildings (defined as five or more units), no more than one-quarter of the building or six units, whichever is less, can be listed for short-term rental. *See* Mun. Code of Chi. § 4-14-060(f). The Department can reject ineligible registration applications, and it can require hosts to remove ineligible listings. *See* Mun. Code of Chi. §§ 4-14-030(b), 4-14-060(g). In Philadelphia, only a host’s primary residence is eligible for a “Limited Lodging Home” use registration permit. *See* Phila. Code § 14-604(13)(b)(.2). Philadelphia hosts who wish to list properties other than their primary residence must go through the more arduous process of obtaining a Rental License. *See* Phila. Code § 9-3902(iv). “Zoning Certificates” for short-term rentals in Berkeley are only available for a host’s primary residence. *See* Berkeley Mun. Code 23C.22.040.

Indeed, the Council sought to address the very same public policy concerns: affordable housing and illegal hotels. As per the legislative history, preserving New York City’s affordable housing stock was the Ordinance’s primary legislative purpose. “[T]his bill has one clear priority in mind: [p]rotecting our affordable housing stock for the millions of New York City [residents] who could not live here without them,” said Council Member Carlina Rivera, primary sponsor of

the bill, Introduction I.0981, at a June 26, 2018 City Council hearing.³² The bill's sponsors were particularly concerned with illegal hotel operators – landlords who list multiple units (especially rent-controlled units) in residential buildings for short-term rental exclusively, thereby depleting the number of New York City units available for long-term lease. “This bill will allow for more effective prosecution of bad actors who are pushing out rent regulated tenants in order to run illegal hotels[] and who are keeping housing we so desperately need off of the market,” said Council Member Rivera at the same June 26, 2018 hearing.³³

The aforementioned ordinances in other cities demonstrate that it would be possible for the City – acting in concert with the State – to regulate homesharing through alternative legislation. In other words, other cities show that intrusive, overly-broad data reporting requirements are unnecessary for achieving the Council's public policy objectives – preserving affordable housing stock and cracking down on illegal hotel operators.

In fact, such alternative legislation is already pending at the state level in New York. In 2017, Brooklyn Assembly member Joe Lentol introduced bill A-7520, a bill designed to permit homesharing rentals. *See* A-7520, State Assemb., Reg. Sess. (N.Y. 2017). The bill would amend the New York State Multiple Dwelling Law and tax law in order to legalize responsible homesharing while enabling regulators to target enforcement of those who turn permanent housing into illegal hotels. The bill does this by including the following provisions: (i) limit individuals to a single, entire-home listing in New York City on homesharing platforms through

³² *See Hearing on Intro No. 554 and Intro No. 981 Before Comm. on Housing and Buildings, N.Y. City Council 8 (June 26, 2018) (statement of Carlina Rivera, Member, N.Y. City Council).*

³³ *See id.* at 9; *see also* Press Release, Progressive Caucus of the New York City Council, Progressive Caucus Supports Bill on Short-Term Rentals (Intro. 981) (Jul. 13, 2018) (“We simply can't continue to bear the cost of losing affordable apartments to illegal hotels. Solving this problem requires greater transparency and consistent enforcement—which this bill gives us the tools to accomplish. . . . When landlords rent out residential units as hotel rooms, they take away a home meant for a New Yorker.”).

the “One Host, One Home” provision; (ii) prohibit short-term rentals in public housing and limit short-term rentals in rent stabilized housing by prohibiting hosts in rent stabilized units from exceeding the annual legal rent for each respective unit; and (iii) require registration by short-term rental hosts. *See id.*

While it is true that some peer cities impose limited data sharing requirements, New York City stands in stark contrast. Whereas cities like Philadelphia require hosts themselves to maintain records and *directly* report to city officials *upon request*, *see* Phila. Code § 14-604(13)(c)(.10), the Ordinance goes one step further by requiring homesharing platforms to obtain blanket consent and submit data *on behalf of* hosts on an automatic, recurring basis. Furthermore, whereas data reporting in Philadelphia is limited to (i) the dates of rental, (ii) the number of renters, and (iii) demonstrating that the home remained the host’s primary residence, *see id.*, the Ordinance requires reporting on a more extensive set of sensitive user data, including:

- (2) The full legal name, physical address, phone number and email address of the host . . . ;
- (4) A statement as to whether such short term rental involved [] short-term rental of the entirety of a dwelling unit . . . ;
- (5) The total number of days that the dwelling unit . . . [was] rented . . . ; [and]
- (6) The total amount of fees received by such booking service.

N.Y. City Admin. Code §§ 26-2102(a). Indeed, in passing this Ordinance, New York City has instituted broader data disclosure requirements than these peer cities.

CONCLUSION

The Court should grant Plaintiffs' motion and preliminarily enjoin the Homesharing Surveillance Ordinance.

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