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Hotel industry takes on Airbnb in a high-stakes lobbying battle

Dec. 2, 2019 By Simone Pathe, CQ

It was the most expensive local referendum in New Jersey history. Airbnb raised more than \$4 million this fall to fight one city's regulations on short-term rentals. But in a high-profile blow as the company prepares to go public next year, the home-sharing startup lost overwhelmingly, defeated by a coalition of groups that spent one-fourth of the money.



(iStock)

Jersey City was not the first local government to fight Airbnb, and now efforts to regulate short-term rentals have come to Capitol Hill as well. Like the fight in New Jersey, the House legislation has brought together sponsors who more commonly battle against each other, including a Democrat in the Progressive Caucus and a Republican in the hard-line conservative Freedom Caucus.

The federal fight over regulating short-term rentals is about the scope of one sentence in U.S. code that was written well before websites like Airbnb, which connect people who want to rent out space in their homes with travelers, were ever imagined. But it's also a classic political story of influence and power that's pitted two industries — one old and one new — against each other, while fostering unexpected alliances.

Each side accuses the other of being purely self-interested.

“They're doing anything they can to limit competition,” says Steve Shur, president of the Travel Technology Association, which represents companies like Airbnb and Expedia.

Hotels don't see it that way.

“It's an unfair competition issue,” says Chip Rogers, president and CEO of the American Hotel and Lodging Association. “Marriott, Hilton, IHG, Wyndham — they compete against each other every day with the expectation that the guy across the street is playing by the exact same rules . . . But when you have someone turning a residential property into a commercial property, and not abiding by those same rules, yeah, the competitors are going to be concerned.”

But individuals are in the fight too: travelers, renters, homeowners, workers and neighbors, all with their own economic needs, who have made this debate more than just a power struggle between two industries.

Besides being a digital competitor to the hotel industry, sites like Airbnb have disrupted neighborhoods and their housing markets, critics say.

“We want residents who live here and care about our city to live here full time and we don't want to be invaded by a bunch of people who are using it as a vacation rental,” says Melissa Bridda, a Jersey City resident who voted to keep restrictions on short-term rentals last month.

Other residents are worried about short-term rentals reducing the supply, and thereby increasing the cost, of long-term housing. They see investors coming in to buy up large

multi-unit buildings to turn into short-term rentals.

“It’s a perfect example of how a major corporate entity and developers were trying to remove greatly needed affordable housing from Jersey City,” says Phyllis Salowe-Kaye, executive director of the progressive group New Jersey Citizen Action.

That’s how the hotel industry ended up partnering with community groups and even some of the labor unions and activists they have battled with on other issues, such as the minimum wage.

“I believe the old saying about politics being the meeting of strange bedfellows,” says Mike Lux, a longtime Democratic strategist who founded AirbnbWATCH — an offshoot of his progressive issue advocacy organization American Family Voices.

AirbnbWATCH, which has been involved in other cities’ campaigns against short-term rentals but not Jersey City’s, is pushing legislation on Capitol Hill that would remove the legal immunity short-term rental sites have claimed against some state and local restrictions.

American Family Voices has been airing cable TV ads in support of the legislation, including one during last month’s Democratic presidential debate on MSNBC.

It’s working with and receives funding from AHLA, the hotel lobby, which has traditionally donated to more GOP PACs, while spreading donations to candidates more evenly. Airbnb, meanwhile, has given overwhelmingly to Democratic congressional candidates running in 2020.

Both sides in this fight have been using the economic plight of others to bolster their arguments. Airbnb argues that its platform allows people to make extra income, and that’s particularly helpful to residents in high-tax areas like Jersey City.

“I have a lot of friends who are dependent on Airbnb, and not only people with their homes but people who work for the homeowners — the cleaning people, the maintenance people,

the people who keep their books,” says Peter Klapper, a Jersey City resident who voted to overturn the city’s restrictions on short-term rentals.

Airbnb has argued that depriving tenants of the ability to rent out their apartments — as Jersey City’s ordinance does — is economic discrimination. That’s one reason the state and local NAACP chapters were opposing the Democratic mayor and governor, as well as many social justice and community groups.

“The financial danger of this ordinance is all too real and stands to wreak particular havoc on communities of color across Jersey City,” local NAACP leaders wrote in a July Star-Ledger op-ed. Airbnb and the NAACP are hardly strangers — they formed a partnership in 2017, which included a revenue-sharing agreement to encourage African-American usage of the platform. Neither the New Jersey nor national NAACP responded to multiple requests for comment.

Taking It to the Hill

In 2017, The New York Times obtained internal documents from AHLA laying out how the lobbying group planned to fund studies showing the detrimental effects of short-term rentals and organize local campaigns in favor of more restrictions.

That’s given fuel to Airbnb’s argument that the hotel industry — and now, Hawaii Rep. **Ed Case** — is the boogeyman.



Case (Tom Williams/CQ Roll Call)

When Case became the general counsel and senior vice president of Outrigger Hotels and Resorts in 2013, he announced his retirement from politics.

He'd left the House after unsuccessfully challenging an incumbent Democratic senator in 2006, and he'd lost another open-seat Senate race in 2012.

Case later joined the board of AHFA, where there was initial talk of trying to amend a piece of federal law known as Section 230 of the Communications Decency Act.

Part of Section 230, which became law in 1996 as part of broader telecommunications legislation, says websites cannot be responsible for what third-party publishers post on their platforms.

Short-term rental sites have been arguing in court, largely unsuccessfully, that Section 230 shields them from any violations of state or local regulations.

“So when I was reelected to Congress, it was definitely on my radar to eliminate that argument,” says Case, who didn't end up retiring from politics after all. He won a race for an open seat in 2018.

In an interview in his office, the congressman started to rattle off the full title of the PLAN Act ([HR 4232](#)), which he introduced in September. But then he paused and turned to his

chief of staff, who had to pull up the full name on his phone: Protecting Local Authority and Neighborhoods Act.

Case's bill would amend Section 230 so that short-term rental sites are responsible for listings that violate local regulations.

Airbnb representatives didn't speak on the record, but the company has been going after Case since he introduced the legislation.

"The PLAN Act was drafted by a longtime hotel executive, is underwritten by the big hotel lobby, and serves just one purpose: to stifle any competition to the big hotels," the company said in a statement in September. "We remain committed to continue working with any government to create smart, reasonable home sharing rules, but the PLAN Act is not that."

Case isn't fazed.

"They figure the way to deal with this is to try to kill the messenger," he says, with the 2019 Spirit of Hospitality award from AHLA sitting on a table behind him in his office.

Bipartisan Backing

The co-sponsor list, so far, is evenly split with five Democrats and five Republicans from across the geographic and political spectrum. "I would challenge anyone to find another group like that on any other piece of legislation," says AHLA's Rogers.

Some of them, including Case, have received money from the hotel industry. (The legislation was introduced toward the end of the most recent fundraising quarter, so cosponsors could have received additional contributions that aren't public yet.)

Three Democrats — Illinois Reps. **Mike Quigley** and **Raja Krishnamoorthi** and California Rep. **Scott Peters** — have taken money from AHLA or a major hotel chain like Marriott this cycle. They're members of the moderate New Democratic Coalition. Another Democrat, Maine Rep. **Chellie Pingree**, a member of the Progressive Caucus, owns a lodge on an island in Maine.

Another Progressive Caucus member signed on in late November. California Rep. **Mark DeSaulnier** worked as a hotel services employee in Massachusetts and belonged to the Hotel Employees and Restaurant Employees International Union.

On the opposite end of the political spectrum is South Carolina Republican **Ralph Norman**, a member of the House Freedom Caucus, who was one of the earliest co-sponsors and has already accepted \$5,000 from AHLA this year.

“I’m in the hotel business,” Norman says. His family business, which constructs hotels, has made him one of the richest members of Congress.

Norman says he’s worried about people’s safety since hotels are held to certain standards that short-term rentals may not be.

He expects other members of the Freedom Caucus to come on board. But there’s a range of Republicans co-sponsoring this legislation so far. Pennsylvania Rep. **Brian Fitzpatrick**, a moderate from the Philadelphia suburbs who has received \$5,000 from AHLA this cycle, signed on in October.

AHLA maxed out last year to Oklahoma GOP Rep. **Tom Cole**, who’s approaching the legislation from a traditional conservative framework. “The PLAN Act is a commonsense bill that affirms the authority of state and local governments,” he said in a statement to CQ Roll Call.

“The fact that we do have business allies in the hotel industry, for example, has helped us get some Republicans and make the case that what Airbnb is doing is unfair competition,” says Lux of AirbnbWATCH.

Lux isn’t expecting much movement on the legislation this year, and he knows that even if his party wins the House, Senate and White House in 2020, uniting Democrats won’t be easy given that some of them are cozy with the tech industry.

Last year, the GOP-controlled House and Senate overwhelmingly passed legislation, signed by President Donald Trump, that amended Section 230 to make it easier to crack down on

online sex trafficking and prostitution. But that was a higher-profile political issue.

Regardless of where Case's legislation goes, Jeff Kosseff, a U.S. Naval Academy professor who literally wrote the book on Section 230 ("The 26 Words that Created the Internet"), isn't sure amending Section 230 is necessary.

"If this amendment were to pass, it wouldn't be the end of the world for online speech or Section 230," Kosseff says. "But also there's not as much urgency for this issue that I can see in light of the court rulings."

For example, a three-judge panel of the U.S. Court of Appeals for the Ninth Circuit, which includes seven Western states, upheld ordinances earlier this year passed by Santa Monica, Calif. The court found that Section 230 does not shield short-term rental sites from liability if they host listings that violate local regulations.

Case doesn't sound deterred.

"I'm not going to rest just because a court rules for me," he says.

Dean DeChiaro contributed to this report.

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