

# CAMBRIDGE CITY COUNCIL

Craig A. Kelley *City Councillor* 

#### MEMORANDUM

TO: Craig Kelley, Cambridge City Councillor

FROM: Wilford Durbin, Aide

DATE: June 16, 2016



SUBJECT: Short-Term Rentals in Cambridge: An Overview of Current Usage and Patterns as well as Policy Recommendations

Donna, please include this memo in the Communications from City Officer's for the Council Meeting on June,

#### Introduction

Reports of this kind have in the past begun with a broad overview defining the nature of our increasingly "shared economy," its myriad benefits, and its most popular examples for the aid of the unconnected. The near ubiquitous permeation of services such as Uber, Lyft, and Airbnb into the daily lives and routines of Cambridge residents makes such a review all but unnecessary, and it is omitted here.

As the more than 600 unique Airbnb listings in Cambridge attest, the City is already integrated into the new shared economy of short-term rentals, yet some regulations and standards for such dwellings dates to the 1990s. That gap has opened niche entrepreneurial opportunities for some residents, and raised concern for others that the safety, affordability, and character of their neighborhoods is at risk. Plodding into the middle of that tension are faceless commercial users that convert hundreds of apartment units and even whole buildings into short-term rental units at the exclusion of potential residents.

To address these and still other concerns, numerous local and state authorities are implementing regulations, sometimes with the support of Airbnb, to create a shared economy that is fair to both entrepreneurs and residents, and guarantees the safety of users.

Cambridge Should Update its Regulations and Ordinances to Reflect the Unique Conditions of Tourist Activity and Housing Affordability in the City

Cambridge is in the midst of a housing crisis, particularly for working-class families. The very nature of the Cambridge housing market means that several truisms of the sharing economy are upending by commercial users, or those operators with more than two unique short-term rental apartments.

Traditionally, the sharing economy allows individuals to make better use of underutilized spaces, but in Cambridge the effect is not to increase utility, but often to convert long-term tenancy space to short-term transient accommodations. More and more frequently, these transactions are not peer-to-peer based as the sharing economy promotes, but rather commercial user-to-transient renter transactions.

For a growing number of commercially listed units, the notion of a *shared* economy is corrupted. Such spaces are not being shared by Cambridge residents with visitors of the City, but just the opposite—access is *denied* to current and potential Cambridge residents who might otherwise occupy such apartments.

In such cases, short-term rental usage is neither peer-to-peer based, nor truly exists for the "shared economy."

For the majority of short-term operators in Cambridge, however, the goal is not to make a profit, but to make ends meet. According to an Economic Impact statement released by Airbnb, the average host earned "\$8,020, renting out her home about 68 nights per year."<sup>1</sup> This extra income helps some operators afford the inflated Cambridge housing market and offsets the high cost of living in the Boston Metropolitan Area.

Lacking uniform regulation and guidance, some individuals operate extra-legally in neighborhoods that are not zoned to permit transient accommodations, and may neglect to provide such basic safety precautions as emergency exit plans that are common in other lodging houses. It is unclear whether Cambridge could even inspect a properly run Airbnb unit through its Inspectional Services Department to ensure compliance with all other safety and sanitary regulations. Such individuals should not be left in limbo, particularly when it is really the wellbeing of tourists, professionals, and students that regularly visit Cambridge that is being wagered.

A Successful Ordinance for Short-Term Rentals in Cambridge Will:

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<sup>&</sup>lt;sup>1</sup> "Economic Impacts in Boston," Airbnb.com (December 18, 2014) http://blog.airbnb.com/economic-impactsboston/. (Such estimates gloss over the boom and bust distribution of rental units and bookings which cluster around popular locations, and the figures have surely risen since 2013-2014 when the study was conducted.)

- Protect Established Neighborhoods, And Ensure That The Rights and Security Of Permanent Residents Are Respected.
- Provide Operators With A Clear Set Of Guidelines To Operate Their Short-Term Rental Unit In Compliance With State And Local Regulations.
- Protect The Current Housing Stock For Long-Term Renters Seeking To Live In Cambridge.
- Allow Short-Term Renters To Book A Stay With Confidence That The Unit Complies With All Safety, Sanitary, And Zoning Regulations.
- Expand Safety Requirements For Other Transient Accommodations—Such
  Posting Emergency Exit Instructions—To Short-Term Rental Units
- Allow The City To Easily Track And Monitor Short-Term Rental Units, And Enforce Regulations
- Allow For Short-Term Rentals That Do Not Exacerbate The Current Housing Crisis In Cambridge.
- Maintain The Competitiveness Of Owner Occupied Short-Term Rental Units Against Commercial Users, Or Make Owner-Occupancy A Requirement of Permitting.
- Create A Licensing Process In Addition To, Or In Conjunction With, State Legislation Currently Under Consideration In The House.

### Short-Term Rental Use in Cambridge and Boston Metropolitan Area

A comprehensive study of short term rental use in Cambridge has not yet been produced, and thus the information provided below is a compilation of available data. Commissioning such a study should be the first step any Council Committee takes toward drafting new policy. Most of the research available is for Airbnb, by far the most popular short-term rental facilitator.

The Number of Airbnb Listings in Cambridge is Quickly Growing, and Now More Than 600.

As of August 2015, a *Globe* review found 591 unique Airbnb listings in Cambridge, though that number has surely risen. Information obtained on Airdna.com, which sells reports on market trends and analysis to Airbnb hosts, suggests that the number of listings in Cambridge may have risen to 684 rental units as of the end of May, 2016. If accurate, the City would have experienced a 13.5 percent increase in Airbnb listings in

just 9 months. A July 2014 article in the *Globe* found nearly 3,500 listings in the Boston area, a 63 percent increase since the previous year.<sup>2</sup>

Cambridge Has the Highest Concentration of Airbnb Listings per Acre in the Boston Metro Area, 49 Times that of Boston.

The same *Globe* report found 1,496 listings in Boston, with an average of 0.26 Airbnb listings per 10 acres, and 591 listings in Cambridge at an average of 1.295 per 10 acres, giving Cambridge an Airbnb density 49 times that of Boston's. The locations of Airbnb units is not uniformly distributed around the City, as areas next to popular tourist locations or public transportation have the highest concentration of short term rental units.

Back Bay had the highest number of listings per neighborhood in Boston with 188. A survey of available listings on Airbnb.com in a similarly sized area of Mid-Cambridge suggests that the neighborhood might have as many as 161 listings, yet Mid-Cambridge has only 6,615 dwellings, or 59 percent less than Back Bay's 11,153 dwellings.<sup>3</sup>

The Average Airbnb Cost per Night in Cambridge is \$164.75, Second Only to Boston's \$181.09 in Metro Area

The average cost per night of an Airbnb listing in Cambridge was \$164.75, higher than any other city surrounding Boston, but lower than the \$181.09 average for Boston. The Downtown neighborhood of Boston had the highest average cost per night at \$274.10.<sup>4</sup> The average cost per night for each individual Cambridge neighborhood was not included in the *Globe* article, but areas surrounding the most popular locations in Cambridge and Boston are likely to be priced at similar premiums.

As of a recent request (June 13, 2016) to the Airbnb.com website for a rental July 22-23, the highest-priced listing was "<u>Harvard/MIT: Convenience & Luxury</u>" a 3BR apartment in Central Square with washer/dryer access, eat-in-kitchen, and porch access for \$499 per night. The listing had 145 reviews dating back to 2014, with 12 reviews in the month of May 2016 alone. (Note: a rental may not always result in a review, so the actual number of rentals may be more.)

<sup>&</sup>lt;sup>2</sup> Matt Rocheleau, "Interesting facts about Airbnb in Boston," *The Boston Globe* (August 24, 2015). Beth Teitell, "Many hasten to turn their bedrooms into inns on Airbnb," *The Boston Globe* (July 15, 2014).

<sup>&</sup>lt;sup>3</sup> For Back Bay data: City of Boston, "<u>Boston in Context: Neighborhoods</u>," Boston Redevelopment Authority Research Division Analysis (March 2016). For Mid-Cambridge data: City of Cambridge, "<u>Neighborhood Profile: Mid-</u> Cambridge / Area 6," Community Development Department (2013).

<sup>&</sup>lt;sup>4</sup> Matt Rocheleau, "Interesting facts about Airbnb in Boston," *The Boston Globe* (August 24, 2015). Matt Rocheleau, "Lawmakers worry owners taking advantage of Airbnb: Short-term rentals may get rules, taxes," *The Boston Globe* (August 24, 2015).

Commercial and Multiple-Listings Users the Fastest Growing Sector of Airbnb Hosts, Brag About Higher Profits Over Long-Term Rentals

A *Globe* review found that 15 percent of Airbnb hosts in Boston have posted multiple listings, with 1,062 users posting 1,496 units. In a growing trend, 64 hosts listed three or more properties in Boston. Of all hosts in Boston, 82 percent listed their primary residence, 8 percent listed an investment property, 6 percent listed a secondary residence, and 4 percent listed an in-law suite.

Hosts with the highest number of listings are not likely to be individuals, but commercial entities according to the *Globe*. The host with the highest number of listings in Boston, SeamlessTransitions, had 56 properties and provides "an array of services to help companies move people to a new city."

Landlords with properties near popular destination can make more money by removing long-term rental units from the housing market to make available for Airbnb users. From the *Globe*:

One Everett landlord said that he and his business partner recently converted 13 of the 100 apartments they own across Boston, Everett, and Chelsea from standard yearlong rentals into shortterm rentals, and then listed them on Airbnb.

"It's more profitable for us...and we don't have to deal with the hassle of a regular tenant," said Jose, 25, who asked that his full name not be published because he fears that officials would try to shut his operation down. "You can easily triple the income going through Airbnb, compared to a regular rental."<sup>5</sup>

According to Airdna.com, as many as 47.7 percent (326 units) of Airbnb listings in Cambridge offer "Entire Place" rentals, 50.7 percent are "Private Rooms," and 1.6 percent offer a "Shared Room." Citywide, 77 percent of listings include washer/dryer access, and 80 percent include air-conditioning. The frequent turnover can cause environmental impacts above what one might observe in a long-term rental unit. One Central Square resident reported taking 30 pounds of linens and towels to the laundromat every few weeks.<sup>6</sup>

<sup>&</sup>lt;sup>5</sup> Matt Rocheleau, "Lawmakers worry owners taking advantage of Airbnb: Short-term rentals may get rules, taxes," *The Boston Globe* (August 24, 2015).

<sup>&</sup>lt;sup>6</sup> "Cambridge, Massachusetts: Airbnb Data and Analytics—June 2016," Airdna.com (Accessed June 13, 2016). <u>https://www.airdna.co/city/us/massachusetts/cambridge?report=us\_massachusetts\_cambridge#</u>. Beth Teitell, "<u>Many hasten to turn their</u> bedrooms into inns on Airbnb," *The Boston Globe* (July 15, 2014).

Many Short-Term Rental Units are Operating in Areas That Are Not Zoned for Transient Housing Use

Airbnb and other short-term rental units fall under the definition of "Tourist house in an existing dwelling" in 4.31.i.1 of Cambridge's Zoning Code. Such tourist houses are not permitted to operate in locations zoned for Res A 1&2, Res B, Bus A-1, A-2, A-3, and require a special permit in other zoned areas.

If the geographic data provided in the afore mentioned *Globe* is accurate, there may have been as many as 40 unique Airbnb rental units listed in the neighborhood of North Cambridge in August 2015. Most of that neighborhood, however, is zoned as Res B or Bus A-2 which does not permit transient accommodations. Of the 40 Airbnb units in North Cambridge, as many as 35 are operating in a dwelling not zoned for that use. The neighborhoods of Strawberry Hill, West Cambridge, Neighborhood Nine, and Agassiz, also with large portions zoned as Res A or B, are also not zoned to permit transient housing, and yet many Airbnb listings are recorded there.

# Residents' Complaints on Short-Term Rental Units in Their Neighborhood—Building "being operated as an 18-room 'hotel' via Airbnb."

Inspectional Services receives and responds to numerous resident-generated complaints regarding short-term rental units in their neighborhood, with more coming each month as the popularity of Airbnb grows. Their complaints confirm for Cambridge the pattern of zoning violation, commercial user listings, and public disturbance that has been observed in other cities.

Residents have complained about their landlord using units in the same building as "a Vacation House," renting the bottom two of four floors for more than a year. Such rentals are "disruptive," another resident complained, "on a day by day basis, I see numbers of people coming and going." That same resident related an experience from the previous year when a short-term rental guest, "unknown to me, stood on the sidewalk...for over an hour watching me clean my front porch...directly across the street. When I finished he went to sit on the front step of the rental unit...and later went in. His behavior made me feel uncomfortable."

Increasingly, Cambridge residents are reporting commercial user operations that advertise multiple units in the same building, housing a reported 8 to 18 short-term renters.

One resident near Harvard University became suspicious after noticing large volumes of transient renters, and discovered several Airbnb listings for the same apartment (Attachment A). Seeking to maximize the number of unique rentals the apartment could handle, the operator created eight individual listings for rooms in the same unit. Despite using the same

Attachment: Short Term Rentals Letter(COF 2016 #32:Short-Term Rentals in Cambridge)

exterior photo in all the advertisements, each listing was displayed at a different address in Airbnb, making monitoring difficult.

With affordable housing already scarce in the City, the report from one resident as recently as June 10, 2016, that a building on Memorial Drive was "being operated as an 18-room 'hotel' via Airbnb" is particular alarming. Having recently purchased the building, the owners converted the entire apartment building directly into short-term rental space for Airbnb users. In that instance, Inspectional Services notified the owners that the usage violated the zoning ordinance in 2015, but compliance was only temporary. As the resident reported:

"the building owner, he did cease to rent out rooms individually/short term and began advertising three units with one-month minimum stay. We have seen a few people in the building on a longer term basis; however, several rooms are still being rented for short stays (some just one night). At first it was sporadic, but over the last couple of months we've seen a huge increase in the number of temporary lodgers, with dozens of people in and out."

# A Useful Model—Key Findings from New York City's Report "Airbnb in the City"

In October 2014, the New York State Office of the Attorney General released a sweeping review of Airbnb listings in the City using information obtained following a lawsuit against the company.<sup>7</sup> Following that data acquisition, Airbnb pledged to share its data more freely with the City in an effort to "build an 'open and transparent' community." It was later revealed, however, that Airbnb "'misled the media and the public' by removing more than 1,000 listings from its site...before making available the data."<sup>8</sup>

The following quotes the key findings of the NYS Office of the Attorney General's report "Airbnb in the City."<sup>9</sup> These key findings have been reprinted in their entirety because, while New York City and the Boston Metro Area are very different cities, the report offers a useful model for predicting trends and usage in Cambridge in the absence of regulation. The report analyzed data on Airbnb bookings from January 1, 2010 to June 2, 2014 (the "Review Period").

Short-Term Rentals Booked in New York Violated the Law. State and local laws in New York—including the Multiple Dwelling Law and the New York City Administrative Code—

<sup>&</sup>lt;sup>7</sup> David Streitfeld, "Airbnb Will Hand Over Host Data to New York," New York Times (May 21, 2014).

<sup>&</sup>lt;sup>8</sup> Mike Isaac, "<u>Airbnb Releases Trove of New York City Home-Sharing Data</u>," *New York Times*, (December 1, 2015). Jonah Bromwich, "<u>Airbnb Purged New York Listings to Create Rosier Portrait, Report Says</u>," *New York times* (February 11, 2016).

<sup>&</sup>lt;sup>9</sup> New York State Office of the Attorney General, <u>Airbnb in the City</u>, State of New York (October 2014).

prohibit certain short-term rentals. During the Review Period, 72 percent of units used as private short-term rentals on Airbnb appeared to violate these laws.

Commercial Users Accounted for a Disproportionate Share of Private Short-Term Rentals by Volume and Revenue. Ninety-four percent of Airbnb hosts offered at most two unique units during the Review Period. But the remaining six percent of hosts dominated the platform during that period, offering up to hundreds of unique units, accepting 36 percent of private short-term bookings, and receiving \$168 million, 37 percent of all host revenue. This report refers to these hosts as "Commercial Users."

Top Commercial Users Employed Rental Platforms to Run Multimillion-Dollar Short-Term Rental Businesses. Well over 100 Commercial Users each controlled 10 or more unique Airbnb units during the Review Period. Together, these hosts accepted 47,103 private short-term reservations and earned \$59.4 million in revenue. The highestearning operation administered 272 unique Airbnb listings, booked 3,024 reservations, and received \$6.8 million in revenue during the Review Period. Each of the top 12 New York City operations on Airbnb during that period earned revenue exceeding \$1 million.

Private Short-Term Rentals Displaced Long-Term Housing in Thousands of Apartments. In 2013, more than 4,600 units were booked as short-term rentals through Airbnb for three months of the year or more. Of these, nearly 2,000 units were booked as shortterm rentals for a cumulative total of half the year *or more*—rendering them largely unavailable for use by long-term residents. Notably, the share of revenue to Airbnb and its hosts from units booked as private short-term rentals for more than half the year increased steadily, accounting for 38 percent of each figure by 2013.

Numerous Short-Term Rental Units Appeared to Serve as Illegal Hostels. New York law does not permit commercial enterprises to operate hostels, where multiple, unrelated guests share tight quarters. In 2013, approximately 200 units in New York City were booked as private short-term rentals for more than 365 nights during the year. This indicates that multiple transients shared the same listing on the same night, as they would in an illegal hostel. The 10 most-rented units for private short-term rentals were each booked for an average of about 1,900 nights in 2013, with the top listing accepting 13 reservations on an average night.

Gentrified or Rapidly Gentrifying Neighborhoods Primarily in Manhattan Accounted for the Vast Majority of Revenue from Private Short-Term Rentals in New York City. Bookings in just three Community Districts in Manhattan—the Lower East Side/Chinatown, Chelsea/Hell's Kitchen, and Greenwich Village/SoHo—accounted for approximately \$187 million in revenue to hosts, or more than 40 percent of private stay revenue to hosts during the Review Period. By contrast, all the reservations in three *boroughs* (Queens, Staten Island, and the Bronx) brought hosts revenue of \$12 million less than three percent of the New York City total.

Attachment: Short Term Rentals Letter(COF 2016 #32:Short-Term Rentals in Cambridge)

## State Regulations Currently Under Consideration, Backed by Airbnb

Recently proposed regulations on Airbnb and similar platforms were introduced under "An Act regulating short-term resident rentals" (H2618) in January 2015. That act was redrafted in the House Committee on Revenue and reported out as the current H4236 "An Act providing for local aid enhancement." H4236 is currently in the House Ways and Means Committee awaiting further action.

The proposed regulation clarifies currently used definitions such as "hotel," "lodging house," and "motel," and defines "transient accommodation" to include: "any vacation, leisure or short-term rental accommodation offering occupancy in exchange for rent, including but not limited to an apartment, single or multiple family housing, cottage, condominium, time-share unit or any furnished residential accommodation within any zoned for residential or commercial use that is not a hotel, motel, lodging house, or bed and breakfast establishment." The language clarifies a memorandum from the Massachusetts Executive Office of Health and Human Services of May 16, 2014, that determined Airbnb and other short-term rentals were "subject to local licensure or permitting as a lodging house or bed and breakfast."<sup>10</sup>

According to a *Globe* article on the proposed legislation, the bill "has support from Airbnb, HomeAway and Short Term Rentals Boston." A statement obtained by the *Globe* asserted that Airbnb is "eager to work with policymakers to help our community in Massachusetts collect and remit hotel taxes to the state...This bill would simplify the complicated tax structure that our hosts face and help ensure the state and the localities receive their fair share of tax revenue."<sup>11</sup>

Cambridge would be required to adopt certain provisions of H4236 in order to have access to additional excise taxes that local municipalities may impose.

State Excise Tax Imposed on Short-Term Rentals

The newly redrafted H4236 imposes a 5 per cent excise tax on "the total amount of rent for each such occupancy" for each rental over \$15. The legislation allows local cities and towns to impose an additional excise on rentals not to exceed 6 per cent of the total rent, while Boston is allowed to impose an excise not more than 6.5 per cent of the total rent. Cities are required to adopt the provisions of H4236 prior to imposing their own excise tax.

The bill requires that reimbursement for the excise be paid by the occupant of the short-term rental unit, which the operator shall add to the rental amount.

**Certificate of Registration Required** 

<sup>&</sup>lt;sup>10</sup> Executive Office of Health and Human Services, "<u>Memorandum: Licensing of Online Home Rental Services</u>," Massachusetts Department of Public Health (May 16, 2014).

<sup>&</sup>lt;sup>11</sup> Matt Rocheleau, "<u>Should Airbnb rentals be subject to hotel taxes and regulations?</u>," *The Boston Globe* (April 4, 2016).

H4236 also states that "No person shall operate a bed and breakfast establishment, hotel, lodging house, transient accommodation or motel in this commonwealth unless a certificate of registration has been issued to him in accordance with section 67 of chapter 62C."

#### **Current Regulations on Short-Term Rentals in Cambridge**

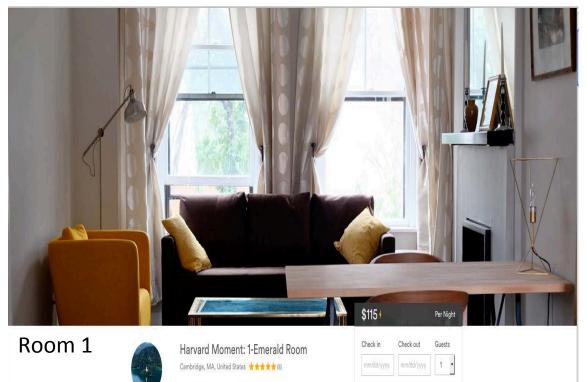
Cambridge's Inspectional Services frequently receive complaints from neighbors about noncompliant Airbnb rental units operating in their neighborhood. Falling under the definition of "Tourist house in an existing dwelling," many short-term rental units are operating in zoned areas that do not permit transient accommodations. Airbnb rentals are not permitted in areas zoned Res A 1&2, Res B, and Bus A-1, A-2, and A-3.

Such short-term rental units may also violate other state and local regulations on fire safety, building code, sanitary conditions, parking, and insurance, but Inspectional Services resolves many complaints before such further investigations are necessary simply by informing the operating that the zoning does not support short-term rentals.

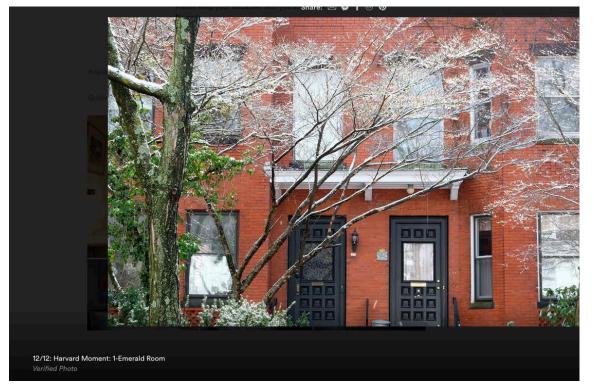
The City Council's Public Safety Committee took up the issue of Airbnb regulations during a meeting on August 10, 2015. During that meeting, Councillors voiced support for certain types of regulations and inspections, as long as residents occupying the dwelling were still allowed to defray the high cost of living in Cambridge with short-term rentals.<sup>12</sup> Such compromise should be regarded as a model for the current drafting process.

<sup>&</sup>lt;sup>12</sup> "Public Safety Committee Report from June 30, 2015: License Commission how it works, the permitting and shared economy," City of Cambridge (August 10, 2015).

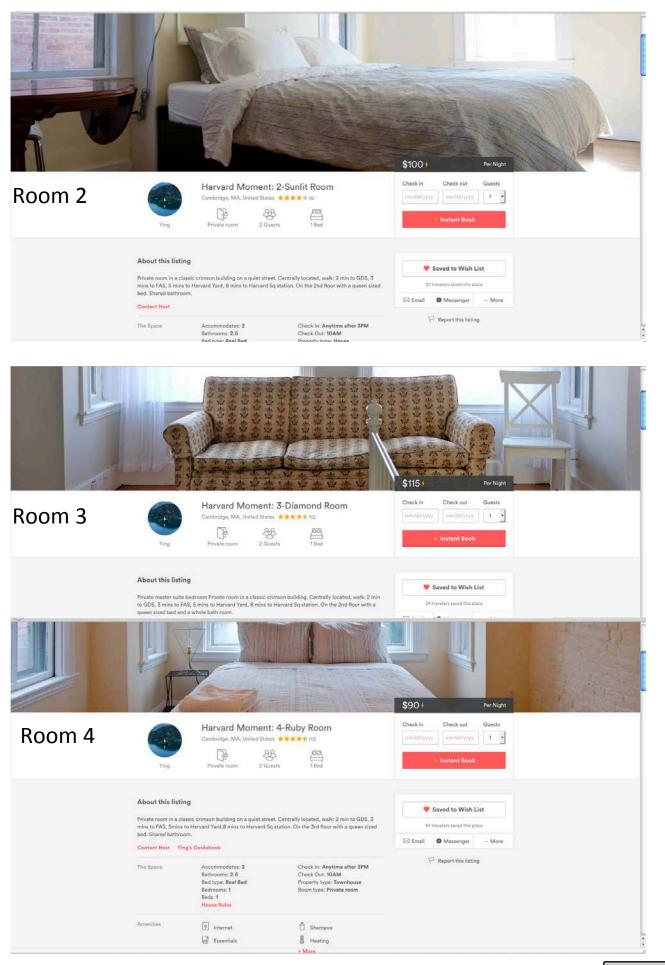
The 6 Airbnb rooms at 52 Kirkland Street are called "Harvard Moment."

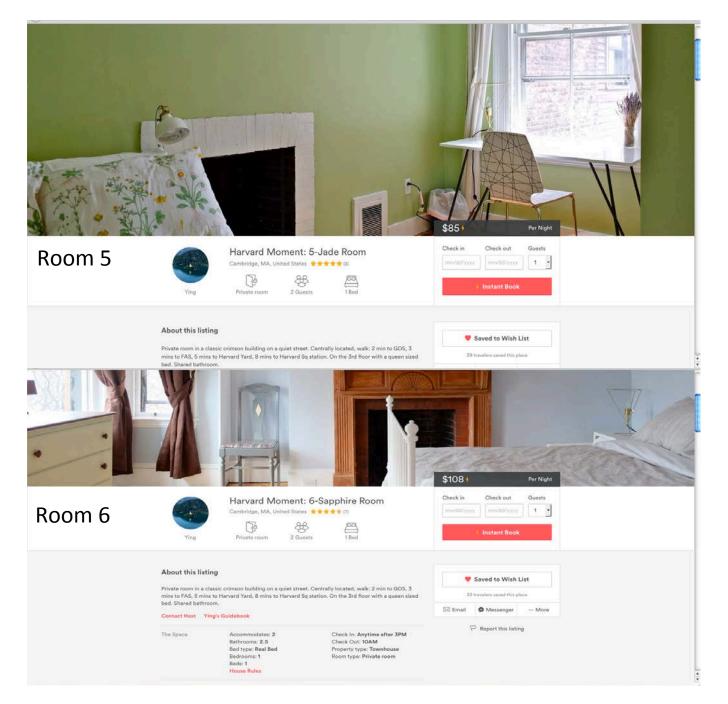


Listings for 5 of the 6 rooms include identical photos of the outside of the building, shown below.

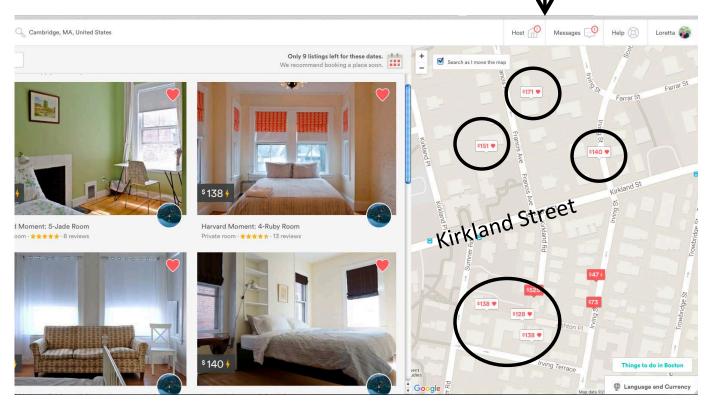


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# Map of locations for the 6 rooms in Airbnb is misleading. The 6 rooms are shown scattered across the neighborhood.



The locations are circled in black.

The Airbnb is managed by someone who gives her name as Yvonne Ying Phing. The listings state that she does not live there.

According to www.realtor.com, 52 Kirkland Street was recently sold in February 2016.