

East Hampton Panel Says New State Law, Online Competition Hurt Local Rental Market

by Stephen J. Kotz | Feb 18, 2020



The East End rental market, which once ran like clockwork, with many year-rounders augmenting their income by leasing their homes each summer from Memorial Day to Labor Day, has seen major changes over the past decade.

The market was turned on its head in the wake of the Great Recession, when short-term rentals of a month or less began replacing seasonal deals — a transformation that was fueled in large part by the emergence of online platforms such as Airbnb.

Today, those in the market are facing even more challenges, the result of a rental reform law adopted last year by New York State, which is expected to have unintended consequences here.

Panelists and guests alike discussed that new landscape at a Press Sessions event, “The Evolving South Fork Rental Market,” which took place last Thursday, February 13, at East Hampton’s Rowdy Hall.

The panelists included Judi Desiderio, the CEO of Town & Country Real Estate; Phil Keith, a Southampton Press columnist, member of the Southampton Town Planning Board and frequent Airbnb host; Tom Ruhle, the East Hampton Town housing director; and Christine Perrucci Smith, a partner in the Riverhead law firm Esseks, Hefter, Angel, Di Talia & Pasca.

Liz Debold Fusco, the Northeast press secretary for Airbnb, was expected to serve on the panel as well but could not attend because she was ill.

Ms. Desiderio said the change in rental habits began in earnest during the Great Recession. “People pulled back on their expenses, they pulled back on their luxury items,” she said. “Having a house in the Hamptons is a luxury.” Combine that with the rise of Airbnb and other aggregators that provided an outlet for people looking to book short-term rentals, and you had “a perfect storm” that changed the market, she said.

“You ask any broker who has been in the business a long time, and they will tell you it annihilated the rental business,” she said of Airbnb.

Anyone looking for things to improve with the new rental law is bound to be disappointed, according to Ms. Desiderio. “The new law is going to be a nightmare out here, let there be no mistake,” she said.

The new law limits the amount of rent and the size of security deposits a landlord can collect upfront. Other provisions, which give tenants more time to fight evictions and prohibit landlords from collecting extra deposits to cover things like utility bills and pet damage, can be used by unscrupulous renters to defraud landlords, she added, especially when seasonal rentals are involved.

The state intended the law to cover long-term rentals but caught the seasonal market in its net.

“They never intended to affect this market,” Ms. Perrucci Smith said. “They were trying to protect the tenant who the majority of their income has to go to housing, and they were trying to protect them from having to pay several months upfront.”

State Assemblyman Fred W. Thiele Jr. has said a legislative fix that would exempt leases of less than 120 days could be coming, but panelists doubted whether that legislation could be in place in time for this season.

Ms. Perrucci Smith said some of her firm’s clients have given up on renting their properties, and others say they are going to ignore the new law, despite her firm’s counsel.

Other clients are asking, “How else can we structure these leases? How can we get around and circumvent these new restrictions?” she said. “And, of course, we just don’t have that magic solution right now.”

Michael Daly, a real estate broker who attended the event, said the new rental law was creating “chaos” in the market. “Every attorney and every real estate broker’s legal department has a different opinion,” he said.

He said one deal he brokered required four separate monthly leases, and the accompanying paperwork, for a single seasonal rental, causing headaches for all involved.

Jenice Delano, a Bridgehampton resident who owns a rental property, said she recently lost a two-month lease because she could not collect the full amount upfront, and argued that language in the preface of the law should exempt a short-term rental from its restrictions. “I intend to go to court,” she said.

Later, she asked Ms. Perrucci Smith if she thought she would win. The attorney responded that she thought the law was focused on “tenant protection.”

Online rentals were also a focus of Friday’s discussion.

Although she was unable to attend, Ms. Debold Fusco sent a statement pointing out that Airbnb had brought in \$58 million and 174,000 guests to Long Island alone.

“Every single day, we see how short-term rentals are creating economic opportunities for both the hosts who share their homes on our platform and their communities,” she said in the statement. She called for collaboration between Airbnb and communities to solve problems that crop up.

From his vantage point, Mr. Keith said Airbnb fills an important niche. As a member of the Southampton Town Planning Board, he said he knows Southampton will not see an influx of chain motels any time soon. In the meantime, “there are a lot of people who want to come out and experience the Hamptons,” he said. “If they are not willing to plunk down a significant amount of change for a long-term rental, a very good way to do that is come out for a weekend or week.”

Mr. Keith said he has only a spare room to rent and has enjoyed a number of cultural exchanges with foreign lodgers. “We’re not doing it to get rich,” he said. “It pays our taxes — so what’s wrong with that?”

But Mr. Ruhle cautioned Airbnb and similar businesses pose many problems. While it is true they may help lower hotel rates, he said studies have shown their overall cost to a community is greater than the benefits they provide.

Although Airbnb likes to say it brings revenue to the community, Mr. Ruhle said it does so by taking business that would ordinarily go to motels that pay tourism-promotion taxes. “There are houses being operated as de facto hotels in residential districts,” he said.

What’s worse, he said, is that “there is documented evidence that the presence of Airbnb raises the rental rates in the community, thus making affordable housing even more difficult.” And he added that there is plenty of anecdotal evidence of homeowners who used to rent their property year-round opting instead for the higher rates they can obtain with online short-term rentals.

Airbnb and related services are causing the same kind of problems East Hampton Town has faced for years, starting with the share houses of the 1980s, he said.

“Airbnb is very good at pretending all their rentals — and I don’t believe it’s true out here — is somebody renting a small room helping to pay their taxes,” Mr. Ruhle said. “We also have people investing in houses as business propositions ... And that is the battle the town is now fighting.”

But Mr. Keith argued that Airbnb is really not about group homes.

“The vast majority are people who are renting out their spare bedrooms or the loft over the garage that is suitable for occupancy,” he said. “You are not talking about people who are making scads of money. You are talking about people who are making their lives more comfortable.”

Jane Holden, a Sag Harbor broker, said short-term rentals bring little value to community. While tenants may browse shops, “they aren’t spending,” she said.

Ms. Desiderio agreed, saying many short-term renters bring their extended families with them and don’t frequent restaurants and other stores during their stays.

Ms. Delano said she had heard of two-month rentals offered on Airbnb and wondered how they would conform with the new state law.

Ms. Perrucci Smith said she did not have experience with Airbnb rentals, but said, “I would think they have to comply with what the state laws require.”

But Ms. Desiderio had her doubts. “For the most part what we are finding is they don’t follow any rules,” she said.