

## Paradise Valley HOA sends message about short-term rentals: Not in our neighborhood

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[Lorraine Longhi](#), Arizona Republic



A home in the Camelback Country Estates community in Paradise Valley that was being used as a short-term rental. (Photo: Lorraine Longhi/The Republic)

Mark Snyder had lived in Camelback Country Estates in Paradise Valley for three years when he began noticing changes in the neighborhood: trash stacked up on the curbs, red Solo cups on the front lawns, blaring music and 12-passenger vans parked on the street.

The homes were being rented out on VRBO and Airbnb after a state law passed in 2016 [expanded protections for short-term rentals](#). VRBO and Airbnb are just two popular vacation rental websites.

"It was obscene what was going on," Snyder said. "This is a street of million-dollar homes, and that's not acceptable."

After unsuccessfully turning to the town for help, his homeowners association decided to take action.

The HOA clarified in its covenants and restrictions that short-term rentals, or rentals for less than 30 days, were not allowed in the neighborhood.

Snyder said one neighbor immediately stopped renting his home for short stays, but another continued. The homeowners association filed suit against that neighbor, and won.

The outcome highlights what neighbors — backed by HOAs — can do to stop short-term rentals despite the state law that allowed the vacation rentals to flourish.

## Neighbors push back

The law, dubbed "the Airbnb bill," was sponsored by now-Congresswoman Debbie Lesko, a Peoria Republican, in 2016 and enthusiastically signed by Gov. Doug Ducey.

The law prohibits cities from regulating short-term rentals, apart from safety, noise, parking and neighborhood nuisances.

In Scottsdale and Paradise Valley, 2,908 rentals ranging from studios and one-bedroom accommodations to entire houses and condos were available in February, according to tourism agency Experience Scottsdale.



Gov. Doug Ducey in June 2016 signs Senate Bill 1350, which loosens regulations for homesharing services like Airbnb and HomeAway. (Photo: Tom Tingle/Arizona Republic)

Dawn Marie Buckland, deputy town manager for Paradise Valley, said last fall that the town tries to balance neighborhood concerns with state-law compliance.

"If it's creating horrible amounts of traffic, excessive noise, it's really getting back to that preservation and quality of life for the neighbors," she told *The Arizona Republic* in October.

Paradise Valley has an unruly-gathering ordinance that code-enforcement officers and police can reference when called out to rental properties that are getting out of control.

The Paradise Valley Police Department independently evaluates whether there is a violation occurring at a home when they are called out, according to police spokesman Michael Cole.

"A lot of times cars are legally parked and noise is within tolerance, so there's nothing much for us to do," Cole said. "A lot of times neighbors don't like what's going on but it's not a criminal violation."

Snyder said the town would not step in despite several calls from his neighbors. Records show that 14 police calls were made to one of the homes in the last year, most related to noise.

So the lawsuit came.

The lawsuit filed in Maricopa County Superior Court on behalf of the HOA in July said that one of the homes advertised that it could sleep up to 38 people in the 10,000 square-foot home for \$2,000 a night.

"Defendants' short term vacation rentals have created nuisances impacting the use and enjoyment of other properties in the Community," the lawsuit reads. "These nuisances have included excessive noise and heavy traffic."

In response, Pacific Capital Enterprises, LLC, the owner of the home, said the HOA did not have discretion to amend its rules and regulations and prohibit the pre-existing use.

"HOAs have a duty of fairness," the response reads. "That prevents them from targeting one or two neighbors and prohibiting their pre-existing use. The HOA violated that duty of fairness when it amended the CC&Rs to target pre-existing vacation rental use."

The HOA and homeowner recently reached a settlement to stop operating the short-term rentals.

Attorneys for the homeowner did not return a request for comment.

### **What rights do homeowners have?**

**The 2016 state law only prevents cities and towns from regulating short-term rentals, but says nothing about HOAs and individual neighbors taking action, according to Bruce Samuels, the attorney who represented Snyder's HOA.**

**"The state law didn't conflict because we had an HOA," Samuels said. "If there are no CC&R's, towns and municipalities have their hands tied."**

Many homeowners associations already prohibit short-term rentals of less than six months in their neighborhoods.

"The reason a lot of (HOA rules) have prohibited short-term rentals is because they depreciate the value of the neighborhood," real-estate attorney Christopher Combs said. "Renters don't care about the neighborhood as much as the people who live there year-round."

However, with or without an HOA, homeowners can often access deed restrictions that come with the purchase of their home, according to Combs.

A north Phoenix neighborhood without an incorporated HOA successfully joined together to [change their neighborhood rules to ban short-term rentals](#) earlier this year.

### **The future of the law**

A bill drafted by Republican state Sen. John Kavanagh, who represents Scottsdale and Fountain Hills, is [moving through the Arizona Legislature to address some of the issues](#) created by the original law.

But is it doing enough?

House Bill 2672 does nothing to curb investor-owned short-term rentals. In Sedona, which is [experiencing a housing shortage as short-term rentals take over](#), some leaders want to see more done to stop investors from coming into town and buying up homes.

The bill initially would have limited the number of guests that could stay in short-term rental properties, but that has since been removed.

The measure would allow cities to restrict rentals to overnight lodging in an effort to block homes from hosting special events.

The bill also would allow the Department of Revenue to impose fines of \$500, \$1,000 and \$1,500 on property owners who receive violations of municipal codes from cities and towns regarding safety or unauthorized special events.

*Have a tip out of Scottsdale? Reach the reporter Lorraine Longhi at [llonghi@gannett.com](mailto:llonghi@gannett.com) or 480-243-4086. Follow her on Twitter [@lolonghi](#).*