

Short Term Rental Tax Policy Stakeholder Meeting
KF's Transcript/Notes

How do you handle property that changes mid-year and moves from short term to permanent?

Keith, Denver

- Currently if property is moved from non-residential to residential mid-year or vice versa, whether it changes hands is not part of equation.
- January 1 of any year is known as the assessment date
- Assessors classify use based on use on that date
- At times assessors are notified of changes but changes are made on January 1
- Taxes are based on use in subsequent year
- Do not pro-rate based on use during the year
- Limited pro-rating in assessor's world
- Value can be pro-rated, but classification is not currently pro-rated

What impact does a change in classification have on the financing arrangements of the owner?

Steve Schleiker, El Paso County Assessor

- Huge concern in El Paso, because Veterans/Active Duty/Retired Military, are taking advantage of a VA loan, but the VA does not loan on commercial property; many have lost their VA loan. ; also changes utility rates etc.
 - Elsner – they're breaching their contract with the VA & they've increased the use
 - Kury – asked about other changes in commercial activity & how that impacts their contract
 - Difference between using your home to run your business and working from home
 - If it takes a year for owners to decide if they should switch to short/term rental
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Keith, Denver Assessor

- Often contacted by title company/realtor asking why taxes are so high on a property; lot of education on when property will stabilize on taxes; as property is going back and forth, there would have to be a lot more education on this (when changes occur)

Dieter Raemdonck

1. Nuts & Bolts concern/reaction – trouble for home owner that qualifies at residential rate, but then changes to commercial rate; they may no longer qualify for financing
2. Fanny & Freddie may not want to buy a loan that is not residential or commercial; may not do commercial loans. Limits options for home owners.

Jason Hopper, CO Assoc of Relators

- Asked Dieter to ask his clients how financing is decided
- Legislature has decided that all STR's should be commercial; strongly disagree

Hilary Cooper, San Miguel County Commissioner

- Reporting requirements – on assessors or individual? To determine use of each property; any contemplation of companion legislation/language to provide platform for assessors to check without determining rental use/days of use etc.
 - Dick – Assessors’ job to do this, so theoretically on them; but would be easier if records were available to assessors, but that is a potential additional cost on the county

George Marlin, Clear Creek

- Re-not qualifying on a loan because of property taxes – state or federal that sets disclosure laws?? Seems like something that could be addressed (similar to disclosing sewer line replacement)
 - Dieter – don’t know, changes in cost from appraisal get factored; bigger issue is an enormous tax bill for someone vs. a standard tax bill; may not change financing, but may change the decision of the buyer; will do more research/get more information

Jonathan Houck, Gunnison County

- Seen in resort communities, that people buy residential units and are using purely as investment properties and using for commercial uses only. 100% of time using as STR. IF a property is expressly used as commercial operation, needs to be assessed accordingly. These other factors can be addressed in each county. Should be thoughtful about how much responsibility we have as use. Owner has to ensure their lending structure, infrastructure etc. is correct. Government shouldn’t be the filter to ensure of these things. Important to have mechanisms to look at unique situations, but many properties are flat out commercial. Also noticed how many services are necessary for a full-time rental.
 - Dick – future/separate discussions
 - Kelly – task force is debating all of this, which brought together meeting

Randy Wheelock, Clear Creek

- We have people buying their sixth, seventh home/condo; and are buying because they can show a business plan with income; being able to qualify / not qualify because of the tax structure is part of the business plan. Builders are buying homes with intent to build short term rentals because of the business interests. Part of the cost of running business.

Mike Segrest, La Plata Manager

- Many of the hotels are being changed over to time shares; should also be considered.

How would you implement partial year use under current law?

Keith, Denver

- No ability to implement a partial year use
- Begs the question of what a STR is by definition (365 days, portion of year, portion of square footage), part of problem is STRs look different across the landscape in Colorado.

Dick

- Home owners gone 6 months of year and rent out during ski season. Is there a way/what changes could we do for them vs. people who build houses exclusively for STRs.
- What would you need to be able to do that equitably
 - Keith Denver – legislature define STRs and direct assessors to do a decision based on calendar days and square footage (his recommendation) from assessors stand point, problem is information. Don't know where they're located, nights available/occurred; portion of property; use of property by owners when not present. Biggest problem for assessors for proportionate valuation, is just getting information then it would be the massive record keeping on each of these properties, significant FTE's to work on data, allocate land, value; things they have to do for current mixed use properties. Then, assuming proportion changes on room numbers on annual basis, then manually change year after year. Then any ability to validate the information. Currently they have zero information.

Dick

- For de-bruced counties, it's a big change in income. Summit has shared a lot of information, an extra approx.. \$27 million/year with some going to school & special districts. Cost in a lot of cases isn't a big concern. Bigger concern is how do you go about this?

Keith, Denver

- Assessors concerned about fair/equitable; not just getting some STRs, they ones they're told about etc. Would want comfort that legislation is done comprehensively/accurately/across the board. Not just the cities, because they're licensed, also in unincorporated areas. Makes assessors very uncomfortable to only get a portion of the STRs.

Kelly, Pitkin

- Agrees data needs to be defensible etc.
- Wondering how assessors treat mixed use properties (both assessors & financiers); considerations for treatment of personal property, that STRs could consider
 - Keith: mixed use for assessment, do currently do (ground floor retail with apartments above), most split the record and value separately. But these areas don't change on an annual or nightly basis. Much easier to track/maintain. In Denver, estimates 1,000 such records (CNR's commercial residential), estimates statewide 10,000's. In Denver, once we add STRs, the numbers add very quickly. Separately determined & valued
 - Dieter: could find a lender, possible to find. Broader question is if the Franny's & Freddie's of the world, could look at becoming commercial potential and that causing a problem. It's possible and needs to be determined. Would they need to come up in new formula? Two parties could come to terms, but not sure if/how that would play out.
 - will work on getting answer, meeting later today.

George Marlin, Clear Creek

- Has data need in administrative department, government has interest in getting platform transparency, as well.

- Lenders now don't know how to address, and related horror stories, but not sure it would change the scenario...maybe make it more insufferable for folks. Not necessarily bad for people who are violating the terms of their loans.

Clyde Church, La Plata

- Equitable distribution/identification of STRs. Durango has a software to capture anyone in La Plata with address that is renting, becomes issue of separating out. Hundreds of them, but does lend to visibility to the assessors office of what is out there. In La Plata, primary residence is if their property is their mailing address. Difference between renting 20 days vs. 120 days is revenue/sales tax.

Josh Blanchard, Summit

- Works towards implementing some of this; differences in implementing (missed most of this)

Ruth Aponte, CCAT

- Re-Custer qu. In chat, we don't know and need to figure out how to capture universe. Idea of platform transparency/accountability, interested in discussing as first piece of puzzle. First Step.

Dick

- County created license, lot of people volunteer, in similar situation of tracking down others

Jason Hopfer, Realtors

- How to differentiate between true second home owner who uses for additional income vs. others
- Interested in how to see in the MLS how to see if it's an STR, how do we list property so people know what the obligation is. Potential wholesale changes to the MLS.

Frank Celico, Summit

- Follow up on Blanchard's comment. Some can identify STR's via licensing. Next question is how to identify the nights. Can identify the properties, but not how often it's being used for STR & classifying. Not sure what the technological solution is. If we could get from Airbnb or other platforms...not sure what the technological piece is there. Use of affidavit, considered. Analogy between personal property reporting, as much money as is coming in, not sure that property is being valued fairly or equitably because of inability to confirm the information on their affidavit. But can check on personal property. Not to mention a lot of housing needs, no matter how many people to add to staff, and short staffed already, we have massive housing problem. One thing to have money but another to have sufficient people/staff. Tracking is fraught with significant problems in fairness/equitability. Better to identify primary residences and then non-primary residences as a different rate, determined based on voter records, which is easily available.
- Dick Response --- a hotel is taxed commercial whether rooms are used or not. Is it fair to tax lodging so differently? Problem with the proportional approach. Not fair to the true commercial facilities. As compared to a hotel with occupancy only half the year.

Drew Hamrick, CAA

- Frank's distinction based on voter records (owner occupied vs. not) would capture all rentals, not just short term. Our industry is extremely worried about, intent isn't to raise commercial tax rate. Need to tackle system based on use but also the length of use. Knows from assessors perspective, when chasing equity, whatever method or record keeping, doesn't miss STR's that should be there, from the rest of the perspective is administrative cost to audit & comply. If every renter of properties is in administrative mess of responding to property to chase STRs has inflation impact otherwise.

Kelly, Pitkin

- Follow up with Frank on disclosure, have for personal but ambiguity otherwise. What tools do you need for STR side? Already ambiguity in assessments, if that's accessible there, how do we get to the point where it's sufficient?
 - Frank – need reliable evidence in order to apply to all STRs. because there are so many companies involved would be difficult to capture everyone fairly to determine nights of use. Summit is in good place to identify properties through licensing, but not sure whether and if so, what we could get from the companies/platforms. For example, if we were able to get platforms to report the nights, which is info they would have, concern is treating those using other platforms differently; people moving platforms to avoid having the data disclosed; big step to get the information.
 - Kelly – what about sales/use tax?
 - Jonathan Houck – creating a problem that doesn't actually exist or alternative tool. Using local marketing district with a vendor that has technical ability to check sites and see if you stay in a property less than 30 days STR, hotel etc. to ensure that compliance is there. That property is remitting local marketing district the proper taxes. Have the ability to have compliance.
 - if someone is choosing to run a STR, then it's available. If they only rent 27 days of month, it's still available the other 4 days of the month for renting. If it's being offered on the market as a rental, then it's a rental. Should be considered that way.

Gary Peterson, Routt Assessor

- Affidavits on status, is done on personal property but wouldn't work on STR property on Number of days etc. People don't like to tell assessors the truth. Not worth the paper they're written on. At least 4k properties identified as an STR, with 6 appraisers to handle that. Already busy managing sales, re-appraisals etc. Can't manage/handle that many affidavits either. Not a great approach. If platforms report, then it must be a light switch, as discussed. Proposal is to go back to pre-Gallagher and rate the same across the board.

Keith, Denver

- Been licensing STRs for 6-7 years. Third party vendor scrubs 80 websites looking for STRs, confident in identification, but portion of property would be extremely difficult. Has asked licensing but said no for nights & square footage. Joked that assessors would have to rent it for a night to measure the space. Philosophical standpoint, assessors aren't against anything, their role becomes more difficult once you get to allocations into use or type. That's when we get uncomfortable.

- implementing partial use would be extremely difficult.

Dick

- since currently implementing partial use for mixed use properties. But in Denver, since it has to be primary residence with a licensing program, they should be able to provide the square footage. Idea would be to randomly check with penalty to not being truthful.

Keith

- would we ask real estate brokers to do the same if they are operating out of their home? Why just the basement STR? Where does fairness & consistency end in that.

Dick

- running your business out of your residence vs. renting it out to other people, it's no longer your primary residence. Big philosophical question

Keith

- (Missed comments re—pendulum)
- light switch approach is much easier; devil is in the details; not sure assessors can get through any of these without help from property owners, platform data; can say from conversations with assessors, the appetite for allocating and doing year after year, is miserable. A light switch is much more administrate-able & consistent.
- would be similar to current state, without other companion legislation

Dick

- issue with light switch is, is it as of Jan 1; then people easily game the system and switch around their assessment. Is there a way to think of to adjust that? Programmatically could do as code. Is there a way that makes sense to you?

Keith

- what we have talked about is an affidavit; assessor mails them something that you will be classified as an STR, unless some combination of these things is true (voter registration, sleep there more than X, use it less than X for STR) would have to proactively notify us, unless they can opt-out. Not without faults/assumptions. Not sure that other than voting records they can identify how many nights there etc.

Ben Tisdell, Ouray

- Throwing out an idea – assessors have other classification (ag, vacant etc.) and must accumulate three consecutive years to acquire status. Could something like that be helpful? Could we explore that approach?

Keith, Denver

- not an AG expert, sounds correct. Maybe look at multiple years before moving in different direction, more evidence & clarity of that's how it's being used.

Ben: already familiar with that approach, could be useful.

JoAnn Groff, Property Taxation

- Colorado is a use state, doesn't matter how it's zoned; legislature has done something really smart to change STRs can be treated more like a hotel/motel even if in a different zoning area. Today, we have hotel/motels that get a residential rate for ... more than 30 days. That owner of the property does give an affidavit to county assessor to get consideration. Difference is that these are residential properties until you get affidavit until they're not. Provide access to a statewide database for counties to use, with light switch approach. Allow the owner to affidavit back that they're not a STR, or the number of nights should be treated as a residential property. Takes assessor out of that judgement and gives incentive to property owner to keep track and do affidavit. Too much to ask assessors to track and figure out county by county. Start getting into an ownership issue. Asking for a lot of judgement from constituencies. On financial question, going to agree with Pogue that it is a private matter between mortgage holder and mortgage; today those relationships are challenged. State shouldn't be concerned with this issue.

Ruth, CCAT

- Question for Keith, do you require the platforms that vendor is scrubbing, do you require platform to check if they are licensed

Keith

- when licensed, must post their license number on listing, also provide tax returns to treasurers' department for tax purposes. A lot of synergy there, but it's not cheap. It's in 6 figures 120-140k / year. Done proportionately based on number of STRs.

(Closing Comments)