

## Judge and Airbnb at Odds over San Francisco Rental Ordinance

By Melissa Levin, J.D. Candidate 2019 | October 18, 2016

The enduring conflict between San Francisco leaders and Airbnb, chiefly over the city’s housing crisis, was [reignited](#) on Thursday, October 6, 2016 in federal district court. U.S. District Judge James Donato expressed concern over a bid by Airbnb to stop a San Francisco law which imposes fines on the rental company, and other similar tech sites like HomeAway, for allowing bookings by hosts who have not registered with the city. He did not immediately issue a ruling.

Local officials and affordable housing advocates have feared that Airbnb and similar services worsen the city’s housing crunch. Airbnb originally agreed to limit short-term rentals for homes and required hosts to register with the city in accordance with San Francisco policy. Unfortunately, after the registration law was passed in February 2015, only 20 percent of its hosts registered their units, and Airbnb did not effectively remove the lawbreakers from its website. In May, an [NBC Bay Area Investigative Unit](#) found that in a sample of 10 properties listed on Airbnb, eight were not registered.

The city took action in June, [voting unanimously](#) to fine the company \$1,000 a day for every unregistered host on its service. Airbnb is fighting back, attempting to stop the ordinance. Airbnb and other tech advocates are concerned with the repressive nature of the law, many arguing that internet firms should not be held back by local rules on what they can and cannot publish on their sites. Airbnb attorney Jonathan Blavin specifically said the ordinance would [force the company](#) and others like it to screen and remove listings for units that could not be legally booked. Local officials, however, are enthusiastic about the ordinance, hoping it will help maximize tax collection on rental units.

Although Airbnb claimed in its lawsuit that it was protected by the Communications Decency Act, and thus cannot be liable for ensuring hosts have registered their listings, Judge Donato questioned how the Act actually applies in this case. “I’m just struggling with understanding how this ordinance inherently requires me as a district court to treat your client as a publisher,” Donato [asserted](#) to Airbnb attorney Jonathan Blavin.

Blavin argued that bookings aside, the ordinance would still force the site to screen the listings it publishes, a free speech violation under the Communications Decency Act. Donato’s criticism extended beyond the tech company, however. The judge also [castigated the city](#) for not providing a simple and quick way for Airbnb to perform user verification before the law goes into effect next month.