

Mackinac Center for Public Policy

Issues and Ideas Forum

“Home Sharing: Michigan’s Next Property Rights Battle”

Speakers:

**Christina Sandefur,
Executive Vice President,
Goldwater Institute**

**Elaine Page,
Resident,
Holland, Michigan**

**Kelli Fickel,
Resident,
Holland, Michigan**

**Brian Westrin,
Director of Public Policy and Legal Affairs,
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Introduction and Moderator:

**Michael Van Beek,
Director of Research,
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Michigan**

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MICHAEL VAN BEEK: Good afternoon. Welcome to this Issues and Ideas Forum. My name is Mike Van Beek. I'm the director of research at the Mackinac Center. Thank you all for being here. I also want to welcome the crowd that's watching this on our livestream. We have – we stream this live and post it on our website. So, if you ever want to go back and share the event with somebody you know or view it again, you can do that at our website at Mackinac.org.

We want to take a minute just to thank Auto-Owners Insurance for their support of the Mackinac Center. And specifically, they support these luncheons that we do on a regular basis. So thank you for their support.

At the back of the room there's some publications that I just want to make you aware of. Mackinac Center does research on a wide variety of issues – education, fiscal policy, labor policy, all those sorts of issues. And we have publications in the back that you're free to take, if you'd like. There's also sheets back there to sign up for some of the services that we provide. We have a daily news site called Michigan Capitol Confidential. You can sign up to receive an email from our news organization as well back there on the pubs table.

Also, before we get started, at the end of the panel we're going to allow for question and answer. There are cards at your table that you can write a question on. And we'll have someone from the Mackinac Center come and pick those up, and then I will ask the question to the panelists based on your cards. So, if you have a question, jot it down on the card, notify somebody, and we'll get it asked to the panel.

OK, so to start today we're going to be talking about home sharing. And this is a particular pertinent issue for Michigan. Renting out the family summer cottage is a common practice in Michigan. And with today's technologies, it's easier than ever. These short-term rentals mean vacationers can more easily find rental space, and often for less money than they would spend otherwise. And homeowners get the benefit of a little bit of extra income that they can earn from their home. It seems like a win-win.

But not everybody agrees that this is a good situation. Some in the accommodations and tourism industries aren't happy with the increased competition, and are advocating for limiting people's rights to rent out their homes. Some homeowner's associations are pushing back as well. And while some cities have embraced this home sharing service, some local governments have restricted and even banned the practice all together. And in Lansing right now, this is an issue of debate. There's been bills introduced in the House and the Senate that would deal with this issue, and would affirm homeowners' rights to use their property for short term rentals if they choose.

And today we have an excellent panel of speakers who will address this issue from a wide variety of perspectives. First up, we have Christina Sandefur. She is the executive vice president at the Goldwater Institute in Arizona. She develops policies and litigates cases advancing health care freedom, free enterprise, private property rights, free speech and taxpayer

rights. Christina is a native Michigander and is a graduate of Michigan State University College of Law and of Hillsdale College.

Next, we'll have Elaine Page and Kelli Fickel present. They are lifelong residents of Holland, Michigan who frequently rent out their properties to short-term renters. Elaine owns a home in downtown Holland that she updated herself and rents out to travelers. And Kelli is the owner of Cobblestone Cottage, a vacation home in Holland.

And last, we will hear from Brian Westrin. He is the vice president of public policy and legal affairs for the Michigan Realtors. He has a bachelor's degree from Louisiana State University and a law degree from Michigan State as well.

So we'll hear first from Christina and then go down the line, and then Q&A afterwards.

CHRISTINA SANDEFUR: All right. Well, thank you all for being here.

And although I am a native Michigander, I come to you today from Arizona. So I thought I would bring with me a Wild West story. So are you ready for this one? This is about a criminal that I defended. And you might be picturing in your mind what exactly his crime might be. It's Arizona, after all. So it could have been, what, robbery, arson, maybe even murder. But no, the crime that I'm going to talk to you about, the crime that my client Glenn committed that made him eligible for fines and even jail time was that he rented out his home, his private home, overnight to a guest. And that was a crime in the town of Jerome, Arizona.

So, how the heck did this happen? Well, let's back up a little bit. Like many of you in Michigan, Glenn liked to spend his weekends getting out of the heat and going up north. In Arizona, going up north means going up into the mountains. And he liked to go up and rent homes and explore the little towns up there. There's a lot of cute little ghost towns. And he found a town called Jerome. It's very small. It's built on the side of a mountain. And it is an old mining town. And when the mines shut down, the town lost about half of its population and it really thrives on tourism these days. You can go do ghost tours. You can go look at little boutiques. And of course, it's a great launching place to go stay and then go see the Grand Canyon and Sedona and all of the other natural beauties that Arizona has to offer.

And Glenn said, you know, it would be really nice, since he was going up there so often, for him to be able to have a little place that he could call his own up in Jerome. But of course, like many of us, Glenn could barely afford one home, much less two, so he kept his eyes out. And one day he found it, home sweet home. And home sweet home didn't look like what most of us would consider home sweet home. It was a building that had been abandoned and left vacant for over half a century. It had been covered in about 10 feet of rocks and mud from a landslide that had occurred about a decade earlier. And it had actually a tree growing out of the middle of it.

But, see, Glenn was an entrepreneur. And he was an innovator. And he said, you know, I can afford this place. And I can actually do something good for the community. I can buy it, literally dirt cheap, and I can fix it up and I can restore it to its historical beauty, and then I can

rent it out to other people like me who want to come up and enjoy Jerome. And then I'll have a place where I can go, I can recoup my money, I can pay the bills, and then I can go up and visit on the weekends. And it was a great plan. And the city was all for it. And they approved his plans. And Glenn put his blood, sweat and tears into the building. And he turned it from a health hazard into a historical beauty that was actually featured on the cover of Arizona Highways Magazine.

So really great service to the community. Really shows what allowing people to use their property rights, how that can incentivize revitalization. And his reward for doing this, was that the city overnight declared him an outlaw. The town officials of Jerome said, you know, actually, we're no longer going to allow short-term rentals or home sharing. And in fact, we're going to make it a crime and we're going to throw people in jail if they keep doing it. So Glenn was not only out his way of making money to be able to pay for this place, but people were no longer able to visit up there, or he was going to go to jail. And if you know anything about Jerome, you know that it only has a couple hotels. And there really aren't a lot of options to stay in the town. So even people in the town were a little bit worried about what that would do to the town's economy.

Now, this is really bizarre that cities are doing this across the country. I wish I could say that Glenn's situation was unique, but in fact it wasn't unique to Arizona and it's certainly not unique to Michigan or the other states. Why is that? Home sharing itself, allowing people to stay overnight in your home for a night, for a week, maybe even a month – this is a centuries old American tradition. People have been doing this in our country literally since its founding. Sometimes people would be allowed to stay in homes for money, sometimes in exchange for a meal or for doing some housework. This is something that people have done for a very long time, especially in states like Arizona and Michigan, that have a thriving tourism economy.

And yet, home sharing is also, in a way, the wave of the future, because now with the internet and the advent of companies like Airbnb and HomeAway, online platforms that allow people to go on and rent out their homes to overnight guests, were able to connect homeowners with renters like never before. And this is a good thing, right, because this allows homeowners who are struggling maybe to pay the bills, they can make a little bit of extra money if they're going to be out of town, or maybe they just rent out a vacant room. In fact, in Michigan about a third of all of the home sharing actually involves somebody taking out a vacant room and staying in the home themselves while the renters are there.

And it also allows people to pay their mortgage. HomeAway had a really interesting statistic. In Michigan, about half of all people who rented a home on HomeAway last year were able to pay for about 75 percent of their mortgage bill that year. That's significant for homeowners. It's also really good for the community, because when you think about it a lot of times these short-term rentals are in areas where hotels, just frankly, don't exist. And it encourages people to visit a new place, like Glenn in Jerome, Arizona, and it spend money in the local economy.

And also, it incentivizes people to buy homes and fix them up that otherwise would have laid vacant, like Glenn's home, because they know that they'll be able to make some money.

This gives consumers more options. People now that are traveling with families instead of having to stay in an expensive hotel they can go rent out a home and they can cook right there in the home. And it also, of course, not only gives people more options but a lot of times we see lower prices.

So this should be a very, very good thing. But of course, whenever there's an innovation there's a government regulation trailing just behind. And that's what we're seeing in cities across the country. This is a full-out assault on home sharing, an assault on our private property rights. Cities across the country are banning or severely regulating your right to use your property as you see fit. And we should be very disturbed by that because our founding fathers, they thought that property rights were fundamental rights. In fact, they were the most fundamental of all rights. If you look at the Constitution, property rights are mentioned more in the Constitution than any other right.

And in fact, I argue that they're the guardian of all other rights. And if you think about it, you really can't exercise your other rights if you're not allowed to own private property. I can't exercise my right to free speech if I can't own a printing press and I can't exercise my freedom of religion if I'm not allowed to own a church. And these are things, though, that come under attack because decades of very bad court decisions and bad government decisions have really turned property rights into second class rights in this country. And that's why we see things like bans or severe regulations on home sharing. And we do see how in curbing people's right to use their private property, it really does intrude on our other rights, just as our founding fathers feared.

So to give you a couple examples. See, it's not just enough for these cities to outlaw home sharing or regulate home sharing, because it's very hard to enforce. The cities will argue, well, look, we say it's illegal to share your home under 30 days and people just do it anyway under the radar, and nobody knows about it – which I would think would be a pretty good reason not to regulate it, because I guess that means that everything's working just fine and it's hard to tell whether somebody is staying in a home for one night or one month or one year. That just shows the arbitrariness of these bans. But cities say, no, no. That means we have to make the punishments and the other regulations more severe, to be able to stop people from sharing their homes.

So, in New York, it's not only illegal to share your home on Airbnb or HomeAway, it's also illegal to advertise your home for rent. And you can be fined \$7,500 simply for listing your home on Airbnb. And if you think about it, that is a violation of my free speech rights, right, to share information with other people. That's a speech issue, and yet that's violated because of these restrictions on home sharing. Also, privacy rights. That's another big one. These are people's private homes. They're not public businesses.

And yet, the city of Chicago has said if you want to rent out your home on Airbnb or HomeAway, you have to go through 58 pages of regulations and make sure you're complying with all of them. And then at the end of that, you have to allow city inspectors to come into your home at any time they want. They can come without warning. They can come without a warrant. They don't have to tell you what they're looking for. And they can come in and search

your home. Even hotels have better privacy protections than that, and these are people's private homes. But yet, this is what the city of Chicago is doing in order, really, to disincentivize people from renting out their homes.

And then, of course, there's the excessive punishment, right? If we can't get people to comply with the law, we're just going to fine them or throw them in jail. So we see cities like Miami Beach, Florida, where if you rent your home overnight you can be fined up to \$100,000 for doing that – \$100,000! And this is not just hypothetical. The city has already said that it's collected about \$6 million in fines. This is crazy, when you think about the fact that Miami Beach was built on tourism. It is a tourism city. It sells itself as a tourism city. And only about a third of people who own homes in Miami Beach live there year-round. The rest of the time they rent them out. It's good for the economy. It's good for the properties. It's good for visitors. That's just what they do. And yet, the government is punishing people, turning them into outlaws for renting their homes.

And that's because our government these days is really treating our rights as if they were just mere privileges, right? And that – it should be the exact opposite. Our cities instead should respect our right to use our property as they see fit. And they should allow us to use our properties in ways that are good for us and our community unless and until we're harming someone else. And the government should have to be the one to justify the regulations, not individual property owners.

The good news, though, is that we can fix this in a way that makes sense. And I know Brian is going to talk a little bit about Michigan's specific situation, but let's go back to Glenn very briefly. In Arizona, Glenn isn't rotting in jail and he hasn't been fined hundreds of thousands of dollars. And that's because we went to the state legislature in Arizona. And we said: Look, cities ought to be able to regulate where they should regulate. They should actually be reducing real harms – noise, traffic, trash, all of the horror stories that people associate with short-term rentals which, actually, statistically, are not – should not be associated with short-term rentals.

But nevertheless, people say, look, we don't want loud neighborhoods. We don't want noisy neighborhoods. We don't want trash out in the street. We don't want traffic problems. Well, cities should be focusing on regulating and enforcing their nuisance ordinances and stopping those actual harms, not drawing arbitrary lines and saying that if you rent for over 30 days it's perfectly fine, but if you rent for under 30 days you're a criminal. So the state law in Arizona that we passed is simple. It says: Cities can't ban home sharing. And they have to regulate home sharing like they would any other residential use in the city. It's fair and it's as simple as that.

But cities can and are encouraged to focus on actual nuisance reduction. And they should apply those rules across the board, because we also know that long-term neighbors can oftentimes be even worse neighbors than short-term renters. And this is – you know, this is really better for taxpayers as well. There's an example out of California – a city in California that started enforcing its anti-home sharing law. And they spent half a million dollars in one year

adding people to this city budget to try to go out and inspect these properties and spy on home owners and figure out if people were renting their home short term.

Five hundred thousand dollars that taxpayers in that city had to pay to code enforcement. They caught one guy in the entire year. They fined him \$2,500. By the way, he was openly violating the law. He actually wrote an online book about how you could go ahead and rent your home even though it was illegal. So it wasn't that hard to catch him. Five hundred thousand dollars were spent to catch one guy. They fined him \$2,500. He packed up his bags and moved out of the state of California. And of course, he had never received – the city had never received any complaints that he or his guests were causing noise, traffic, trash, or anything else. He was an upstanding citizen, a responsible home owner. And he is now a resident of Colorado, thanks to that city in California.

So, again, this is a solution that is smart for property rights. It protects property rights, but it still protects clean, safe neighborhoods. And you know, really, when we think about it, cities don't ban backyard barbeques just because they might get noisy or rowdy, right? They don't ban graduation parties, just because a bunch of people might park on the street. No, instead they allow people to use their property rights and they enforce reasonable nuisance restrictions when people violate the common order of the city. And that's exactly what should be done for home sharing.

So thank you, and I look forward to taking your questions. (Applause.)

KELLI FICKEL: Well, I love everything you said, Christine. But –

MS. SANDEFUR: I like to hear that. (Laughter.)

MS. FICKEL: Well, I just wanted to share a little bit from my perspective as a homeowner. I am a lifelong resident of Holland. I purchased a home in Holland right out of college. It was the cheapest house in Holland, because that's all I could afford on my starting teacher salary. And I was a little naïve when I bought it. It wasn't in the best neighborhood. I then found out it was mouse-infested and had gram scales for measuring marijuana, I guess, up in the ceiling tiles, and had a long history of a lot of problems as a long-term rental.

I then spent the next 10 years of my life fixing the house – (laughs) – gutting it inside and house and converting it, and a lot of friends and people telling me I was crazy. My friends who were realtors said: What are you doing? Location, location, location. And you are now three times the property value of your neighborhood. But we poured just a lot of heart and soul into it, my then-boyfriend now husband, started helping me and it was kind of our project.

So we really loved the home. But after the birth of our sixth child, it was a two-bedroom one bathroom. And that was just not so fun with six kids. So we moved out. I loved the home, though, and it would not have sold for even what we put into it, craftsmanship-wise. And so we were trying to look at options for the home. Long-term rental market too, it was a home that was beyond the pricing for long-term renting. Also, I still needed all of the storage in the garage we

had built and the attic space. And I wanted to be able to use the home for personal use. So I wasn't ready to turn it over.

Well, I actually was in the dentist office waiting for my six kids to have their teeth cleaned and I was reading an article in a magazine about Airbnb. It was the first time I'd even heard about it. This was about five years ago. And I thought, you know what? I think I'll try that with the house. Why not? We hadn't even moved into our new home. I was still living in my home in Holland when I put my house on Airbnb and got the first little message that somebody wanted to rent it. And I actually had to move out into my parents' house for the weekend to rent the house out to somebody else – (laughs) – and try to make it seem professional and like it wasn't the first time someone had stayed there.

Since then, I rented for about four years. I had no incidents in four years. I had nothing buy wonderful, wonderful guests from all over the world, and people from right next door. I had three different neighbors who my house became their family's rental when they wanted to come for Christmas. I actually had three neighbors that were kind of fighting over Thanksgiving, who was going to claim it. And they ended up breaking Thanksgiving into little chunks. Like, I'll have until Thanksgiving Day, and then you'll have Thanksgiving weekend.

So I had a lot of support from neighbors. And we are a college town in Holland. And so Elaine will attest too, there's a real market for families of Hope College to use the home. And I was even used by the city itself. The Herrick Library had guest speakers come in, Hope College had guest speakers come in, the church that's right next door to my house used it for their people that were coming in. And so it was really used by the community.

Now, I did not think I was doing something against ordinance. When I looked on the Holland Chamber of Commerce, I actually thought of maybe listing on it, but I was getting so much business through Airbnb I decided not to. But they had lots of homes listed because of the long-standing tradition of vacation homes on the lake. When I received my first citation letter, I actually was very surprised. I wrote back to the city official and said, hey, this is just my second home. I'm vacation renting it when I'm not using it for my personal use. And it's no different than all of these maybe 50 homes listed on your Chamber of Commerce website.

Well, she then told me that none of the homes are actually in the city of Holland limits. It's just ones in Park Township or Laketown Township, our area townships. And so I said, well, I think I'm just doing what they're doing. It should be fine. And they didn't get back with me. I thought it was because they agreed with me. (Laughter.) But no. It was not. They were just kind of collecting what are we going to do about this, because it wasn't – I think there was a handful of us, maybe five, that were doing this in Holland.

So, when I received my second citation letter, I thought, well, maybe I should take this seriously, but everything is going so well. And it wasn't until the third citation letter actually that is started working with city officials on this issue, trying to understand why they were against it. And I heard a lot of comments that it was going to destroy neighborhoods. Having a short-term rental was against the character of a residential neighborhood, and that was the big reason they did not want to allow them.

So I tried to present to them my neighbors, and how they love my vacation rental, how they still feel that I am a very active part of the neighborhood. In fact, I am more active now in the neighborhood than when I lived there in that I even pay my nephews to pick up any little pieces of trash that are on the street, everything that you want to present the best when you are presenting your home as a vacation rental.

And the only complaint I've ever gotten from my guests are a couple of things that other neighbors aren't up the same standards as my home. And we do have a lot of density of long-term rental in the place. And a lot of those actually operate under the radar as short-term rentals. Sometimes you'll see just this real rotating bar of people coming in. And I felt like my very legitimate, helpful business was what was shut down. Where people – every scare scenario that someone on the planning commission or the council put out was not what you're regulating when you shut down legitimate businesses.

So I then had council members and planning commission and city officials come to my home. These are people that were opposed, had voted against allowing the short-term rentals. And every single one that came to the house changed their position coming to the house, and meeting with the neighbors and seeing what it was really like and reading guest reviews, and seeing what kind of real, legitimate vibrant, helpful part of our town that we really are, and that we actually fit with the mission statement of the town, which is to try to be an innovative city, to be welcoming, to have diverse neighborhoods with diverse economic backgrounds and people. And we really feel like that's what we do and that's what we support with our homes.

So I'm long-term renting it now. The only problems I ever had with the home was it vacant after receiving my citation letter and I was hit with graffiti all over the house. And my Christmas wreath was stolen off the door. And so the problem of vacant homes, when they're not occupied in a short-term way, is a thing I've heard from a lot of other homeowners who use their home for their own vacation use or long term. And they like to fill in the blank because it's actually safer for the entire neighborhood and for the community to be able to do that.

So I know Elaine has more comments. Thank you. (Applause.)

ELAINE PAGE: Well, I am Elaine Page. And my story kind of mimics Kelli's, aside from the six kids. (Laughter.) I have one.

So I purchased my property in 2003. I wanted something that I could live in but also renovate. So about half of the house was done. I looked at, you know, the bathroom and the kitchen were already renovated. And it was done – it was a great job. It was already a two-family home. It still classified as a rental property, even when I purchased it. So I poured, you know, a ton of sweat equity and love into that house. There's some extremely nice woodwork in there that I scraped all the paint off, about a quarter inch. I'm sure I've got lead poisoning because the house is about 100 years old, but you'd never know it from going inside.

So I lived there for about four years, and then got married in 2007. And at that point in time, the house sat empty. But I couldn't part with it. And my husband was like, OK, you're

paying mortgage on a house that no one lives in. And then a friend of ours who was going through a divorce knew that I had the house. And he rented for a good year and a half. So technically, I've been doing short-term rentals since 2011. So I've been doing it for six years. So we had the long-term renter in for a while. And like Kelli, I had an email pop up from VRBO. And again, I didn't really know much about it. And so it was pretty cheap. My background's marketing. So I'm like, 295 bucks for a year? That's cheap. So I decided to set up a site. And it just – it started taking off.

And I do have some numbers of – like, in 2011 I had four rentals. In 2012, I went to 14. Then I went to 16. Then I went to 20 to 25. And then as I started getting the letters, and I've received four – so if anybody's – (laughs) – going to end up in prison it will be me, because I think I've been doing it the longest. But so – and now I am back to four rentals. And I need the income to pay for the mortgage. I mean, my goal was not to get rich doing this, but we have a son. And he knows that someday that will be his house, which is kind of a detriment to his work ethic, because he's like I already have a house. (Laughter.) I said, you're nine. You don't have a house until you work for it.

But so he comes down. And this summer he has a job and he's going to take care of the yard work. But as Kelli said, I know all of the neighbors. Last night we had a public hearing in Holland. And five of my neighbors from the street came and spoke on my behalf, and on our behalf, because they absolutely love having short-term rentals. There's a couple of long-term rentals that, you know, a few people told stories. And you know, they just – you can't manage a long-term rental as you can a short term, because my whole philosophy was I poured so much heart and soul into that house that I want to be able to get in, you know, in between, so I could see and assess any damage. And, you know, I charge a pretty hefty deposit, and people want that back.

So we don't get people in – I mean, the news was saying that people are renting these homes so people can come to Holland to party. And I'm not quite sure if all of you have been to Holland – (laughs) – but that's not exactly, you know, what we're known for. The unfortunate thing is over tulip time, my house sits on a corner that overlooks one of the most beautiful flower parks, has tulips, it has these gorgeous trees. And it sat empty over tulip time. The trolley goes right by my house. And I always have flowers out. I have rocking chairs on the front porch. Everybody who stays there gives me great reviews.

One of my final touches on the house when I decided to do the home rental was may all who enter as guests leave as friends. And many of the people have become friends. I have people that come back. Sue and Larry, they come back. And they're friends now with the people on the corner. And they get together for dinner. And they said, this is our home away from home. They come back to Holland all the time. And I had to tell them, I'm sorry I can't rent to you, because it's for less than 30 days. And as Christine mentioned earlier, what is the difference between seven days and 30 days?

And, you know, it's been an honor to be able to have people come and stay in our homes and actually be an ambassador to our city, and help people, you know, direct them what beaches to go to, what restaurants. And the statistics are, you know, people spend three times as much

when they're staying on what they're actually spending on, you know, where they're staying. So, if they're spending 100 bucks on, you know, a rental, they're spending 300 bucks in the city. And so we've seen nothing but positives. My neighbor to the left of my house, she actually bakes brownies for the people that come. And she loves to get to know them.

Right now, I have a gentleman from Mexico. I do some corporate rentals, which is great. So that's kind of helped hold me over. But it is getting tight, because for a couple of years we did really well on the house, where I could pay the mortgage and have a little extra. I also own the bridal shop in Holland. And so certain times of the year it gets slow there. So it was great, because it would take a loan from the house and I'd slide it to the bridal shop, and then vice versa. And January through April, it gets really busy at my shop and it gets slow at the rentals. So then I would slide money back.

So, you know, and I've employed people to clean my house and take care of the yardwork. So – and the other – the other side of it is we do pay an annual fee. So the city is getting money from us. It's not our homestead, so we're paying probably twice as much in property taxes. So the money's going back to the city. We go through the inspections. You know, I just got a letter that I have to have my furnace inspected. So, you know, and we would be more than willing to comply with anything like the hotels or the B&Bs have to do. And we are trying to work with the city. But this has been a very long process. We've actually had a few casualties along that way, that have just decided we're going to sell our homes because we can't afford it.

So we really think that we're providing a niche. I've had, as you guys all know about the real estate market, it's hot right now in Holland. People can't find houses. They sell a house, they have nowhere to go. We had a ton of those people that just need two weeks. They don't want to go to a hotel with their kids, especially, like, during a school year. So we get a lot of those people. So we kind of fill a really nice niche for places to stay. So thanks for having us today. (Applause.)

BRIAN WESTRIN: So the one thing that I'm compelled by is in the 12 years – and I'm sure many of you folks have dealt with this a lot longer than I have – that I've been going to zoning meetings and planning commissions relative to this issue all over the state is that by and large these are the stories that you hear. And yet, I don't want to say it's the fictional equivalent to a unicorn, what you would like to – you know, you leave those meetings impressed by is the notion that this discourteous behavior that people are dealing with because of short-term rentals is rampant. I can honestly tell you that that's just not what we hear.

From the Michigan Realtors perspective, we've been heavily engaged in this debate for a number of years. And, quite frankly, going around the state and testifying and weighing in at local levels has really identified the heart of the problem, that, you know, to treat this activity as commercial activity when it's less than a month and ban it, or to treat the activity in one zone as commercial activity and allow it in other zones as a permitted residential use, it just fundamentally – it doesn't make any sense.

So we look at this from first the private property rights issues, which Christine – she addressed very well, and I'm not going to retread that. But then we look at it from a value issue. So we look at these properties, and we think: If you're allowed to do it in one zone and you're not allowed to do it two and three, there's an artificial inflation of value there that is really a problem in terms of private property rights and the value of your largest investment, especially if it's a second home.

The other issue that we see is, you know, these properties are typically non-homestead properties, so they're paying that additional 18 mills. This additional tax, you know, base is very important to the local economy, obviously. Very important to the local schools. And yet, some of the counter arguments that we've heard to the opposition to the two bills that have been introduced – House Bill 4503 and Senate Bill 329 – is that it's going to change the characteristics of the neighborhood. Or it's going to change, you know, the levels of funding and the levels of success of that particular community.

We would argue that these areas are these areas because of the second home market. I mean, they are tourist economy and, from the Michigan Realtors perspective and the property owner's perspective. You know, we haven't heard this outcry of discourteous behavior from vacation rentals. As we've said many times, you know, there's no difference between an annoying full-time renter – or, not – an annoying full-time occupant and an annoying renter. They occur. I mean, that happens. But that's why you have nuisance regulations. That's why you have the ability to address the situation when it develops.

So the reason that the Michigan Realtors has supported this from a statewide perspective is because, quite frankly, it's been identified as a zoning issue. And while local governments might not agree, the Zoning Enabling Act is created by the state for a reason. I mean, it's legislation. So, to that end, to go into the Zoning Enabling Act and actually define vacation rentals or short-term rentals as a residential activity, and take the guess work out of whether or not it's commercial in nature, which we've fundamentally believed it could never be – it's always been a residential use and, as has been mentioned, we don't understand how it's any different from a month-to-month or a long-term lease in that regard.

So that's why this is a very targeted approach. We took a lot of guidance from the efforts in Arizona and the success there to make sure that it was not saying – we're not telling you how to regulate or whether you should regulate at all, but you should not use zoning as a mechanism to treat property owners favorable in one sense or unfavorably in others, or to ban it outright – because the ban has a very problematic impact on not only the property rights but also the local economy. You know, it's very short-sighted, in our view. We think ultimately that once this debate continues through the summer, and we'll, you know, take this legislative action, really to make sure that everybody understands that this is a fundamental property rights issue.

There are still regulatory options available to local government. But this notion of a ban – you know, the preemption of local government authority – we would argue that the preemption that's really going on here is the preemption of the private property right that's existed since the first home was built. So I look forward to questions. (Applause.)

MR. VAN BEEK: All right, great. Thanks, everybody, for the presentations. As I mentioned, if you have a question, jot it down on a card there and we'll have somebody come and collect them. And I'll ask them here from the podium. I've got a couple of my own, so I'll start with those. And I'll open it up to anybody here.

What about – or I guess I want to know what exactly the opposition to banning the ban is. Like, so what are the problems that the city council is bringing up? What are some of the – what are some of the things that you've heard people are concerned about by allowing short-term rentals?

MS. PAGE: Well, part of it, they're afraid that we're taking away from affordable housing, which basically they wouldn't have been able to afford my house in the first place, especially in the neighborhood where it's at. So that's one issue that city council has kind of migrated to.

Kelli?

MR. WESTRIN: The other thing I would touch on relative to the affordable housing piece or the housing option piece is there seems to be a misconception that, you know, investors are going to swoop in and buy all these properties and buy the entire block. These properties go up for sale. These properties are subject to the market. There are buyers and sellers either who want to use them as a vacation home or want to be a full-time resident. So there's no donation of property going on here. This is such that we recognize that the market is going to yield what the market yields in this – in this regard. And for a local unit of government to say that a particular area, just because it ultimately leads to transactions – housing transactions that are largely second home in nature, in our opinion that's really kind of denying the basic characteristics of that local government as a tourist destination.

MS. SANDEFUR: Yeah, and think about the morality of that, too, when you think about this. We hear this affordable housing issue come up a lot, and what you're actually saying – when somebody says, you know, look, we shouldn't allow short-term rentals because it makes houses too expensive, what you're actually saying is that government should artificially devalue people's homes. And, as Brian mentioned, you know, your most important asset, right? We used to – back in the day, we used to all buy homes hoping that they would go up in value, right, hope that we would have – be able to retire and have something to leave our children. And nowadays, you know, not so much, because what the argument is is, look, if we allow people to exercise their rights as they see fit, you know, housing's going to be valuable, but if we take away people's rights little by little we make that property less and less valuable, and then that makes it artificially cheap. Well, my gosh, government, then, why should they stop there? They can regulate our rights away to do whatever we like with our property – how we paint our property, how we build on our property, everything under the sun. And the more regulations they place on our property, the cheaper and cheaper those houses are going to be. But think about the morality of that, that government ought to set the price of your home artificially low. That, to me, is just absurd.

MS. FICKEL: Well, I think it's very offensive to people who need affordable housing to say, hey, what you need is a glut of homes that are in such disrepair that they can only rent out for about \$500 a month. My neighbors have thanked me for raising the value of the entire neighborhood. We actually did have a home that was refurbished on my street that sold for \$200,000, and this is a street where I bought my house for 60,000 (dollars). And it used to be – well, a lot of people who have lived in Holland a long time couldn't believe it, that that house actually sold for that. It helps change the character of the neighborhood, which improves everyone in the neighborhood.

So the other issue, I would say, that they've pointed to is that they want neighborhoods to be kind of the "Leave It To Beaver" scenario, where all of the neighbors know each other's names and have backyard barbecues together and things. And I just think, again, it's an artificial dictation of saying what your neighborhood has to be. Not that you're not involved still as a property owner, but my neighborhood has never been one where we all know each other's names and have barbecues together, and it's not something even people are looking for in my neighborhood. But that's the other big issue that I do see pointed to.

And then the strawman of just all these transients that are going to come in, and how it's not safe to have all these strangers come to the town, and what are they going to do. And one of the staff members had mentioned at every meeting that he's OK with his neighbors having a party because he knows the neighbor's name, but if someone is next door and he doesn't know them, then that's not OK. But I don't think that's something that you can dictate.

MS. SANDEFUR: Yeah, essentially there you're asking government to choose who's desirable and who is not to live in a neighborhood, and I don't think that we want to trust government to make those types of decisions. We've seen what's happened when government has made those types of decisions in the past.

MR. VAN BEEK: I have a question here about the example, Christina, that you used from Arizona. They're asking: What led the – I think it was Jerome, right, was the town.

MS. SANDEFUR: Yeah.

MR. VAN BEEK: What led them to change their mind regarding the short-term rental?

MS. SANDEFUR: The Goldwater Institute's legal might. (Laughter.) So we actually filed a lawsuit against the town of Jerome, and you know, we do litigate over property rights nationwide. But these cases, I'm sorry to say, are very difficult to win in most situations because, again, courts just don't respect property rights anymore. But in Jerome, the town had actually not amended its city – or its town code at all. They had just, overnight, decided that home sharing was, in fact, commercial instead of residential, and since it was a residential neighborhood – and even though everybody had always been renting and the city, in fact, even approved Glenn's plans – they were just going to decide that actually this was commercial and we're going to go ahead and ban it. And so our lawsuit was over whether or not a city could do that without even voting, and it can't.

And so we actually were in a situation where we mooted our own lawsuit. We were doing very well in court. Glenn's story was so compelling, just like the stories we're hearing today, when you actually hear about how real people are affected by these issues, lawmakers started paying attention and they said what the heck is going on in our cities across the state, much like they are now in Michigan. And so we were able to work with the legislature to bring a bill, just like the Michigan bill, to the legislature and fix this problem for not just Glenn, but everybody. And that – and, therefore, we mooted our own lawsuit, which I guess when you're a lawyer is a little disappointing. But the policy side of me says, hey, as long as people are free to do what they want with their property, I'm happy.

MR. VAN BEEK: Here's a question any of you can address. The bills, what were the numbers again, Brian?

MR. WESTRIN: Senate Bill 329 and House Bill 4503. 4503 is Representative Jason Sheppard and Senate Bill 329 is Senator Hune.

MR. VAN BEEK: OK. So the bills that would ban local governments, cities, from outlawing short-term rentals, how do you respond to the argument that says, well, that's taking away those local governments' local control? And, you know, for certain people in the legislature, that's – you know, they really value that and they want those decisions to be made locally. How is this not problematic from that perspective?

MR. WESTRIN: I'll start. Well, the preemption argument is common, and it comes up nearly every time local authority is in any way questioned. In this – in this instance, we view the real preemption here, as I mentioned, as to look at your zoning and to reinterpret it, and pull the rug out from under a property owner who's been practicing short-term rental for generations. That's the real preemption, because, as Christina mentioned, with zoning law, if you don't amend it but reinterpret it, the nonconforming use or the grandfathering or allowance that you can continue to do it, that doesn't exist. So there's a lot of folks who have had a situation where they've had the ability go away overnight.

There's also been a scenario where they've had the situation where they have gone in and they've amended the zoning ordinance to allow for it in certain zones and not others. And, you know, we do reject, you know, that on the private property rights angle as well. But we want to make sure, you know, the way that this bill is crafted and it's targeted as such, to make sure that this is defined as a residential use and not a commercial activity.

MS. SANDEFUR: And, look, local control at its most basic form is an individual or a family being able to make decisions about how they use their property, so long as they're not harming others. And so to draw some arbitrary line to say that, well – you know, you hear people say local control, that communities ought to be able to make these decisions. But it's not the communities that are making these decisions, it's the bureaucrats that sit in the city councils and the town councils who are making the decisions about what's best for you and your family. And that's not local control; that's, frankly, what I would call local out-of-control. And so there are things that cities ought to be able to do in order to enforce nuisance, but when cities are

actually violating people's rights and making decisions for individuals, the state, I think, not only has the power, but has the duty to step in and protect those individuals from those cities.

MR. WESTRIN: And I would just quote directly from the legislation. I mean, it does – it does clearly say this section does not prohibit regulation applied on a consistent basis to rental and owner-occupied residence(s) for noise – you know, noise, advertising, traffic, or other conditions. So it really – it really does point towards the local control that already exists. So the notion that local control is being eroded, we would argue that, you know, it's a pretty – it's a pretty fine balance there.

MR. VAN BEEK: Here's a question about how broadly this issue is throughout the state. So a lot of what we've heard about are from, you know, vacation towns like Holland – a little more than a vacation town, but you know, it's a very tourism-focused town. Is this just an issue that we need to worry about in Holland, in Traverse City, in places like that? Or where else is this having an effect?

MR. WESTRIN: From my perspective and our Public Policy Committee's perspective, the reason that this made sense to apply statewide is that, you know, the internet didn't invent short-term rentals. It's obviously made it much more readily available, and you have situations in areas all over the state where you have event destinations, not just vacation destinations. And this would allow for you know, the protection of that right – whether it's near a major football stadium – you know, presuming that there's any discussion to ban the practice going forward. This takes the guesswork out of that, and it would define it as a commercial – or residential use, and void that commercial activity argument.

MS. PAGE: I do want to make a comment from the last question. Last night, we were at a public hearing in Holland and we had the room filled, and probably 30 people spoke on behalf, and they were all in support. And, I mean, I was one of the first people to speak, and I had mentioned that I was bringing five of my neighbors who were for it. And just the body language of the councilmembers, there was in particular, he shook his head no. And I looked at him and I said, no, they can't speak? Or, no, you're not going to listen? You know, because it was a public hearing, but I guess listening isn't part of the hearing. (Laughter.) So that was – I just wanted to kind of put that out there because we've been attending city hall meetings for two years now and there's never been somebody to show up opposing it. But city council just doesn't want to have anything to do with it.

MR. VAN BEEK: Another question here: Who are the main opponents to short-term rentals? What groups or organizations are sort of fighting you all on this issue?

MS. SANDEFUR: Well, one of the major ones, you can imagine that whenever a regulation is – goes into place, especially for a practice that's been around a long time, a lot of times there's some anti-competitiveness behind it, and we see that nationwide. In fact, there was just a study that The New York Times did – an article The New York Times did maybe about a month ago that exposed the hotel lobby, and how they had these plans to come together and spend a lot of money in cities and states nationwide in order to pass these types of bans, drawing

the line at 30 days and kicking short-term rentals out, because of course that's their competition, or at least that's their perceived competition.

We see the same thing happening in the taxi industry, right? The taxi industry exists, and then Uber comes along and innovates. It provides a service that for some people is better. And so the taxi industry wants to protect its turf, and it comes in and lobbies in order to make their competition illegal.

And I think we see that a lot. I certainly saw it a lot in Arizona, and I see it a lot nationwide. And, you know, really, when you think about it, that's just bad for everybody. That's bad for consumers. It's bad for the economy. It's bad for homeowners.

And, really, hotels are not seeing much threat overall from home sharing. In fact, home sharing we see is opening up a market for – that didn't previously exist. It's just a different kind of market. But that's one of the big opponents that we see to home sharing.

MR. VAN BEEK: Anybody else?

MR. WESTRIN: The only thing I would add to that is, obviously, the local governments have come out in opposition to these bills immediately. We have – we have met with the local governments and their lobbyists on this and discussed the differing viewpoints.

But, again, I do go back to – you know, between Christina and I, there are two examples that are real examples, and those you can multiply exponentially because that's really what our membership is hearing. Our realtors that work in vacation communities, where the market is largely second-home-based, the buyers, the sellers, they are actually asking those questions. They're asking the questions before they make an offer on a property. They're saying, you know, are there rental – is there rental flexibility? Because at this point in time there's actually a lot of awareness out there that this – that this issue is being debated. So I may well not – I may well choose not to make an offer to purchase in a particular area based on the restrictions because I'm not going to be a full-time occupant. So those are the types of things where we hear stories of very legitimate use, but we're not hearing, as Kelli mentioned, the strawman or strawperson theory that there's all of this outrageous behavior that's occurring and it's tied to a specific rental.

MS. SANDEFUR: Sometimes it's just the personal preferences of city officials themselves. The city of Miami Beach has taken to Twitter to express how much he doesn't like Airbnb in his city. They've outlawed it in Miami Beach. I mentioned they're fining people hundreds of thousands of dollars for renting their homes. And he says, you know, I like Airbnb, I use it – he says this in his tweets – I use it when I go on vacation myself. I just don't want it in my city. (Laughter.) And he's proud of this fact.

But, I mean, I think that gives you a little bit of insight. You know, some – it might not be for everybody. You might not want to live in a neighborhood where there are short-term rentals. You might not want use a short-term rental. You might want to go rent out a hotel. That's fine. You know, people have their own personal preferences. But you've got to let

people be free to make their own decisions, and it's very dangerous when we empower government, especially at the city level, to be able to make decisions and impose blanket restrictions on everybody just based off their own personal preferences.

MS. FICKEL: Yeah, we've found in Holland there's maybe three big personalities that are in opposition to it, and it sort of feels like this old boys' club that's just trying to control your city. And the only thing that has made them a little nervous is having a public hearing where 50 people show up, all in support, and then they do start to feel a little nervous. But otherwise, they're kind of sitting in their little room with no one there, making their own rules, without any data. And I keep asking them, show me the data. Show me what's against it.

In New Orleans you know, they had banned it, and then they had – the University of New Orleans did a study on the actual data, and the city officials then did reverse their position and allow. Once you look at the actual data and not just some scare scenarios, they do change their opinions if they're open-minded.

MR. VAN BEEK: We have time for two more questions. This one, I think, will probably be best addressed to Brian or best chance of knowing this. So we spend \$30 million every year trying to jump up tourism in this state through the Pure Michigan campaign, through the MEDC. I assume that they're onboard with this kind of thing, too, as a way to boost tourism?

MR. WESTRIN: You know, we haven't actually heard an opinion either way. We've reached out to, you know, various groups – small-business owners, obviously, even those in the lending community as a likely proponent of this. As I mentioned, you know, the scenario where a person is contemplating a purchase and they decide not to, that impacts, you know, the lending community as well. But as far as that perspective from the MEDC and, you know, the Pure Michigan campaign, we have not heard yet.

We think it's a logical thing to support. You know, we know there are areas around the state that Airbnb and, you know, hotel and motel lodging options aren't that prevalent. I look at, you know, Bellaire, Michigan, where Short's is located. You know, Airbnb is very vital up there, especially for that storefront and that small area. So protecting those types of scenarios and really keeping the focus on the need, and, you know, not losing sight of the really fundamental property rights issues that we're talking about, I think that's really what we're going to be talking about this summer.

MR. VAN BEEK: All right. And the last question. You have people in the audience here who want to help, so they want to know how to help lobby for these bills.

MR. WESTRIN: The first step is communicating with, obviously, the committees. Right now, in the House they're in Tourism and in the Senate they're in Local Government. We were anticipating a Senate hearing a couple weeks ago, but it ended up getting postponed just because of the scheduling and the budget. So we're anticipating that, as the summer break ends, we're going to gear up for legislative action. And having communications that are in support of this

approach, and really the validity of not only the short-term arrangements but also the private property rights issue, I think that that really resonates with all the lawmakers we talk to.

MS. SANDEFUR: And I'd also like to make a plug for my two favorite freedom-fighting organizations in the country, the Goldwater Institute and the Mackinac Center for Public Policy. And if you go to GoldwaterInstitute.org or Mackinac.org, you can read more about these issues. And if you would be so kind as to support those organizations, you know, everything that we do is based on donations. We fight these lawsuits in court, and in the legislature, and of course in the court of public opinion, and we can't do it without all of your support. So I encourage you to visit the website and support those organizations.

MR. VAN BEEK: That was actually my line, Christina, but that's – (laughter) –

MS. SANDEFUR: You know, I – (laughs) –

MR. VAN BEEK: Well, remember what she said: support our fine organization and others like it.

Join me in thanking our panel once more today. (Applause.)

Thank you all, again, for coming. We hope to see you next time. Check out the pubs table at the back and you can sign up for some of our services there. Thanks again, and have a great day.

(END)