

**The City of Jackson's Opposition of House Bill 4046  
Quick Reference Summary**

- The City of Jackson strongly opposes the passage of this bill as this bill takes away local control. Short-term rentals should be regulated by local governmental units that know their cities best. The language takes away a power that has always been in the hands of local governments to determine which uses are best located in which areas, and the regulations of differing uses in differing areas.
- The language of the bills could result in landlords of traditional month-to-month rental properties being under the impression that they can simply do consecutive 27 day leases and then not have to comply with any of the requirements for the health, safety and welfare regulations for rental property. This would result in enforcement issues for cities, increased litigation for cities and likely result in some tenants living in substandard conditions while the City and the landlord battle through the language of this bill.
- The confusion that results from the fact that a section of the zoning enabling act is seeking to regulate how properties are rented will no doubt cause a great deal of difficulty not just for rental inspection programs, but also for the approval of special and conditional uses. As a result, confusion, wasted time, wasted money and litigation will result at the expense of the taxpayers.
- Regulation of rental property has been subject to the Housing Law of Michigan since 1917. Lodging houses such as Airbnb would be classified in the Housing Law as Class b multiple dwellings and must comply with certain requirements of the Housing Law for the safety of the persons lodging there. This bill is a zoning bill and cannot preempt the Housing Law of Michigan without an express preemption. Even if this bill had such preemption, there would need to be sweeping revisions made to the Housing Law of 1917 to correlate with the language in this bill. As there is no express preemption, this bill has no real effect on how lodging houses or rental properties can be inspected, and does little more than just create confusion.
- By making a lodging house or short term rental a residential use, Owners using their properties as short-term rentals could arguably continue to claim a 100% Principle Residence Exemption ("PRE") on their taxes. This would allow what is basically a business to avoid paying its fair share of the school taxes.
- Hotels and motels are required to pay specific taxes used to support local tourism and meet various public-safety laws, including compliance with current fire codes, building codes, and zoning ordinances. Short-term rentals would not be bound by any of these requirements because short-term rentals would be considered equivalent to a single family owner occupied use.

# SUBSTITUTE FOR HOUSE BILL 4046

Jackson's Suggested Revision 1

A bill to amend 2006 PA 110, entitled  
"Michigan zoning enabling act,"  
(MCL 125.3101 to 125.3702) by adding section

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

SEC. 206B. (1) NO LOCAL UNIT OF GOVERNMENT MAY RESTRICT A PERSON'S ABILITY TO LEASE A RESIDENTIAL STRUCTURE, DWELLING OR UNIT BASED ON THE TERMS OF THE LEASE AS THEY RELATE TO THE LENGTH OF THE TERM OF THE LEASE THEREOF BY THE USE OF ZONING REGULATIONS.

(2) THIS SECTION DOES NOT PREEMPT ANY STATE STATUTE, CODE OR OTHER REGULATION, NOR DOES IT PRECLUDE, LIMIT, OR INTERFERE WITH A LOCAL UNIT OF GOVERNMENT'S AUTHORITY BY LOCAL ORDINANCE, RESOLUTION OR OTHER MEANS TO PROTECT OR REGULATE THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE OF THE PUBLIC THROUGH HOUSING, NUISANCE, ZONING OR OTHER ORDINANCES, RULES OR REGULATIONS.

# **SUBSTITUTE FOR HOUSE BILL No. 4046**

Jackson's Suggested Revision 2

A bill to amend 2006 PA 110, entitled

"Michigan zoning enabling act,"

(MCL 125.3101 to 125.3702) by adding section 206b.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**SEC. 206B. (1) A SHORT-TERM RENTAL CANNOT BE EXCLUDED AS A USE FROM ANY ZONING DISTRICT AND IS NOT REQUIRED TO OBTAIN ANY SPECIAL USE OR CONDITIONAL USE PERMITS IN ORDER TO OPERATE AS A SHORT-TERM RENTAL.**

**(2) THIS SECTION DOES NOT PROHIBIT THE ENFORCEMENT OF ANY ZONING REGULATIONS FOR NOISE, SIGNAGE, TRAFFIC OR OTHER HEALTH, SAFETY OR WELFARE ZONING REGULATIONS AGAINST A SHORT-TERM RENTAL.**

**(3) AS USED IN THIS SECTION, "SHORT-TERM RENTAL" MEANS THE RENTAL OF ANY SINGLE-FAMILY PRIVATE DWELLING, ANY 2 FAMILY DWELLING, OR ANY MULTIPLE DWELLING OF 4 UNITS OR LESS, OR ANY UNIT OR GROUP OF UNITS IN A CONDOMINIUM, FOR NON-CONSECUTIVE RENTAL TERMS OF LESS THAN 28 DAYS AT A TIME.**

**(4) THIS SECTION DOES NOT PREEMPT ANY OTHER HEALTH, SAFETY AND WELFARE STATUTE, LOCAL ORDINANCE OR REGULATION REGARDING THE RENTAL OF ANY SINGLE-FAMILY PRIVATE DWELLING, ANY 2 FAMILY DWELLING, ANY MULTIPLE DWELLING, ANY NON-OWNER OCCUPIED RESIDENTIAL PROPERTY, OR ANY UNIT OR GROUP OF UNITS IN A CONDOMINIUM.**

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

**Detailed Reasons for the City of Jackson's Opposition to Substitute for House Bill No. 4046**

The following is an analysis of the impact of the substitute for House Bill No. 4046 on local government rental and non-owner occupied housing unit registration and inspection programs authorized under the Michigan Housing Act of 1968 as amended:

I submit that the above reference substitute:

1. Sec. 206B (1)(A) and (C) Commercial use versus residential use:
  - While the International Building Code regulates 1-4 unit residential structure in the same manner as a single family home (whether rented or owner occupied), that is not the case for large scale residential facilities which follow a specifically different set of standards by law and are deemed a commercial use and regulated as such and cannot be applied on a consistent basis for both rental and owner occupied properties;
  - Because the Michigan Zoning Enabling Act cannot pre-empt the International Building Code or Michigan Housing Code we believe both will still regulate how and why local municipalities address building, mechanical, electrical, plumbing, and housing matters regardless of the changes contemplated in this substitute. This substitute, clearly does not account for other, more detailed, conflicting statutes and externalities.
2. Sec. 206B (1) (B) Special or conditional use permits:
  - Because conditional or special use permits are not required for a single family house use under the proposed law, a municipality could no longer require such a permit for the conversion of a single family into a prisoner release home, opioid recovery center, or the like, even if located in the middle of a neighborhood next to school, playgrounds or other similar uses.
3. Sec. 206B (2) because the bill states that "this section does not prohibit any of the following if applied on a consistent basis to rental and owner-occupied residences" the bill is essentially saying that everything below (A thru E) is not allowed because they cannot be applied consistently.
  - A. Regulations of Noise, Advertising, Traffic, or Other Conditions:
    - Advertising: while signage can no longer be regulated by use, the size of the complex (single family versus multiple family) would necessitate different size signage therefor cannot be applied on a consistent basis for rental and owner-occupied property;

- Traffic: the size of a building and the occupancy density therein determines the impact said density has on traffic control regulation on traffic and is highly regulated by state statute and controlled through Traffic Control Orders (high vs. low traffic areas), each of which is addressed differently through the Uniform Traffic Code of Michigan and can therefor not be applied on a consistent basis for rental and owner-occupied property;
  - Other Conditions: storm water regulations are not applied consistently as mandated by State and Federal law (only properties impacting over one (1) acre must address storm water runoff). Rental and owner occupied properties are not consistently under this 1 acre minimum; therefor they cannot be applied consistently for rental and owner-occupied property.
- B. Number of Individuals Occupying a Dwelling:
- Michigan Building Code has a maximum occupancy requirements per square foot of building area
  - State laws define a family and other such regulations
  - Federal law regulates the number of occupants in terms of gender and therefor cannot be applied on a consistent basis for rental and owner-occupied properties.
- C. Dwelling Inspections and Inspection Fees:
- Since inspections are limited to rental or non-owner occupied properties as per the Michigan Housing Law of 1968, inspection of the noted residential occupancy types preclude consistent application. To note, single family, owner occupied properties only receive exterior CRX inspections and again, are therefor not cannot be applied consistently for both rental and owner-occupied properties.
- D. Taxes:
- Taxes are not applied on a consistent basis (commercial vs. residential)
  - Assessments by which taxes are calculated are not applied on a consistent basis (income vs. cost basis);
  - Abatements (IFTs, CRA's and the like) are applied on a case by case basis depending on location, use, and need and cannot be applied on a consistent basis for rental and owner-occupied properties;
  - Proposed substitute for HB 4046 could result in a significant loss in tax collection for all taxing jurisdictions including the schools, libraries, convention and visitor's bureau's, etc. because homeowners could continue to claim a 100% Principal Resident Exemption (PRE)
  - Hotels and motels are required to pay specific taxes used to support local tourism. Short-term rentals (quasi hotels and motels) would continue to be exempt from this vital tax since they would be considered equivalent to a single family owner occupied use
- E. Notification Requirements: It is very unclear the intent of this subsection

4. Sec. 206B (3) Defining Short Term Rentals:

- Permitting short-term rentals of twenty-eight (28) days or less suggests that landlords simply have to adjust the terms of their lease agreements to **exempt** themselves from non-owner occupied residential registration and inspection programs statewide.

This section is perhaps the most troublesome section of this bill and substitute and I am quite sure that is not the intention of its authors and sponsor.

**Conclusion**

The bills preclude local governmental units from inspecting properties to ensure compliance with basic building, zoning, electrical, mechanical, plumbing, and rehabilitation code standards as well as to destabilize established neighborhoods in a time when the housing market, specifically in urban core communities, are struggling to regain strength. This bill will disproportionately, negatively impact low income persons and people of color and serve to further marginalize this segment of the population within aging urban core communities which statistically is most heavily reliant on the rental market. By simply reducing the days within a lease, or completely avoiding its utilization, rental units would continue to deteriorate without the necessary oversight, thus potentially jeopardizing the safety of the occupants.

Review of House Bill 4046

RE: The City of Jackson's Opposition of House Bill 4046

To Whom It May Concern:

Recently, the House introduced a bill which, if passed, would amend the Michigan Zoning Enabling Act. The bill seeks to eliminate a local governmental unit's ability to regulate short-term rentals, defined as "the rental of any single-family residences or 1-to-4 family house or dwelling unit, or any unit or group of units in a condominium, for terms of less than 28 days at a time." The proposed language would allow short-term rentals such as Airbnb, VRBO, vacation rentals, and rental agreements lasting twenty-eight (28) days or less to be considered residential rather than commercial uses. Commercial uses would then be permitted in single family residential districts which is likely to negatively affect property values, as well as the residential character of the neighborhood. The City of Jackson (the "City") strongly opposes the passage of this bill as the City purports that short-term rentals should be regulated by local governmental units as rental units or commercial business establishments.

The following are the City's concerns about the bill:

**Local Regulations**

- Requiring short-term rentals to be licensed allows local governmental units to track the quantity and quality of such operations. A license, which could be revoked if needed, also makes zoning and code enforcement reporting more manageable for local governmental units.<sup>1</sup>
- By permitting transient housing or short-term rentals in single family residential areas, the State Legislature would weaken efforts by local government officials to protect home values by allowing commercial uses of property in areas that would typically prohibit such uses. Local governmental units are afforded the ability to regulate land uses through zoning regulations as authorized by the Home Rule City Act (PA 279 of 1909) and the

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<sup>1</sup> Sullivan, Edward. "Regulating Short-Term Rentals." *Planning*, Vol 83, Issue 5, American Planning Association, May 2017, Chicago, Illinois, pp. 14.

Michigan Zoning Enabling Act; however, the proposed bill would prevent the utilization of these legally afforded tools.<sup>2</sup>

- Local governmental units should have the power to determine how traditional and short-term rentals are zoned; what types of properties may operate as a short-term rental; and what, if any, conditions, design review standards, or zoning changes may apply.<sup>3</sup> The State should be judicious when consciously interfering with how local governmental units manage their communities as defined by the Home Rule City Act.
- Although the bill provides that local governmental units may continue to regulate short-term rentals in the districts where they are located consistent with the same regulations provided to owner occupied residences, it is clear that the bill also would potentially apply to rooming houses, prisoner release housing, and other multiple family housing options. Therefore, all such uses could locate, by right, in any residential neighborhood.

### **Zoning Conflicts: Rooming Houses and Group Homes**

- Single family residential districts are intended to stabilize, protect, and encourage the residential character of the district in which they are utilized and prohibit all incompatible activities. The City, much like other communities, presently restricts the districts in which rooming houses and boarding houses may operate. If a property owner wishes to consider operating a rooming or boarding house, it would only be permitted in the R-3 (multiple family) or R-4 (high density apartments and office) districts.
- Requiring short-term rentals (including rooming and boarding houses) to be considered equivalent to a single family owner occupied home could result in a significant increase in the quantity of nonconforming uses in single family residential districts. This would result in the preemption of a local governmental unit's authority to enforce zoning regulations intended to protect the health, safety, and welfare of residents.

### **False Principle Residence Exemption Claims**

- Owners using their properties as short-term rentals could arguably continue to claim a 100% Principle Residence Exemption ("PRE") on their taxes. Claiming a PRE exempts a property owner from paying the tax levied by a local school district for school operating purposes (up to 18 mills). This loophole allows a property owner to continuously rent their home for up to twenty-eight (28) days, while still claiming the property as their owner occupied principle residence. Under these circumstances, the legislation implemented to protect short-term rentals would become a mechanism for property owners to circumvent local non-owner occupied residential rental property regulations and millage obligations.

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<sup>2</sup> Neumann, Brad (2015 December 22), *Considering regulation of short-term rentals in light of the sharing economy: Part 2*. Retrieved from [http://msue.anr.msu.edu/news/considering\\_regulation\\_of\\_short\\_term\\_rentals\\_in\\_light\\_of\\_the\\_sharing\\_econ2](http://msue.anr.msu.edu/news/considering_regulation_of_short_term_rentals_in_light_of_the_sharing_econ2)

<sup>3</sup> *Id.*



- Continuous short-term rentals should be considered rental homes or units, which may not claim a PRE because these properties are not a primary residence or owner occupied. Elected officials of local governmental units should be allowed to maintain the police power to regulate short-term rentals through local zoning ordinances and housing maintenance ordinances.

### **Non-Owner Occupied Residential Dwellings or Units**

- In 2016, roughly thirty-six percent (36%) of households in the United States occupied rental properties.<sup>4</sup> This figure represents nearly one-hundred and ten (110) million people, including thirty (30) million children.<sup>5</sup>
- According to the last American Community Survey (“ACS”), just over 47.5% of the City’s population resides in a rental unit.<sup>6</sup> According to the City’s Non-Owner Occupied Residential Property Registry (“NOORPR”) program, a slightly higher figure of forty-nine percent (49%) of the City’s population resides in a rental unit.
- The Housing Law of Michigan and the Home Rule City Act grant authority to the City to monitor non-owner occupied residential properties to ensure safe, secure, quality, and sanitary living conditions for those residing therein. The implementation of registration and inspection programs are in the best interest of entire communities, which includes, but is not limited to, the State of Michigan. While tenants absolutely deserve safe housing, surrounding owner occupied homes deserve significant safeguards as well. Allowing such broad and sweeping negative changes to the very act that provides those protections serves only to undermine long-term value of properties owned by those who chose not to participate in renting properties.<sup>7</sup>
- While perhaps well intentioned, House Bill 4046 is far too broad and as a consequence potentially affords far more objectionable rentals in areas which the sponsors may not have intended. Language in the bill serves to directly undermine all non-owner occupied registration and inspection programs operated by local governmental units. Its passage actually will negate the efforts of the Apartment Association of Michigan; the Landlord Association of Michigan; the Michigan Legislature, both Democrats and Republicans; the Michigan Municipal League; and numerous local governmental units involved in the negotiation of Senate Bill 394 passed and signed by the Governor two sessions ago.
- Additionally, the Housing Law of Michigan (PA 0014 of 2016) authorizes standard month-to-month lease agreements for a period of thirty (30) days, provided said rentals conform to the Michigan Zoning Enabling Act (PA 110 of 2006) and local zoning

<sup>4</sup> *The State of the Nation’s Housing 2016*. Rep. Joint Center for Housing Studies of Harvard University, 2016. Web. 11 May 2017.

<sup>5</sup> *Id.*

<sup>6</sup> 2012-2016 American Community Survey, 5-Year Estimate, Table DP04: Selected Housing Characteristics

<sup>7</sup> Glink, Ilyce and Samuel J. Tamkin, *How your neighbor’s Airbnb rental can affect your property values*. Retrieved from [https://www.washingtonpost.com/news/where-we-live/wp/2016/09/07/how-your-neighbors-airbnb-rental-can-affect-your-property-values/?utm\\_term=.3da54d7fe294](https://www.washingtonpost.com/news/where-we-live/wp/2016/09/07/how-your-neighbors-airbnb-rental-can-affect-your-property-values/?utm_term=.3da54d7fe294)

ordinances. However, permitting short-term rentals of twenty-eight (28) days or less suggests that landlords simply have to adjust the terms of their lease agreements to exempt themselves from non-owner occupied residential registration and inspection programs statewide. This further undermines the ability of duly elected local government officials from protecting their communities through self-determinant legislative action to protect neighboring property values within their own communities.

- This bill undermines local control and directly preclude local governmental units from inspecting properties to ensure compliance with basic building, zoning, electrical, mechanical, plumbing, and rehabilitation code standards as well as to destabilize established neighborhoods in a time when the housing market, specifically in urban core communities, are struggling to regain strength.

### **Lower Property Values**

- All property owners within the United States are bound by zoning laws and ordinances designed to protect their property values and those of their neighbors. The operation of short-term rentals without local oversight could potentially result in the creation of nonconforming and incompatible public nuisances.
- The proposed legislation suggests that anyone interested in operating a business out of their home in a single family residential neighborhood would be free to do so in spite of local laws that provide otherwise. This logic violates basic zoning principles and undermines the very premise and reason for zoning laws in the first place.
- The constant rotation of tenants with a potential increase in blight has proven to lower property values. According to *The Washington Post* journalists Samuel J. Tamkin and Ilyce Glink, houses located next door to short-term rentals sell for lower amounts than houses without a neighboring short-term rental.<sup>8</sup>

### **Michigan Zoning Enabling Act**

- It is not clear why regulations regarding short-term rentals would be placed under Section 206 of the Michigan Zoning Enabling Act (“MZEA”). This Section of the MZEA regulates State licensed residential facilities. Short-term rentals do not currently require a State license to operate nor is there any mention in the proposed amendments to the MZEA that licensing will soon be required.

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<sup>8</sup> Glink, Ilyce and Samuel J. Tamkin, *How your neighbor's Airbnb rental can affect your property values*. Retrieved from [https://www.washingtonpost.com/news/where-we-live/wp/2016/09/07/how-your-neighbors-airbnb-rental-can-affect-your-property-values/?utm\\_term=.3da54d7fe294](https://www.washingtonpost.com/news/where-we-live/wp/2016/09/07/how-your-neighbors-airbnb-rental-can-affect-your-property-values/?utm_term=.3da54d7fe294)

### Creation of Nonconforming Uses

- As noted previously, granting the commercial use by right in a single family residential neighborhood will create nonconforming uses that due to their legal creation will prevent local governmental units from mandating their discontinuance.
- The eventual conversion of nonconforming uses to a legal conforming use due to the passage of time is a key mechanism for ensuring ordinance compliance/use compatibility, a zoning tool which would be eliminated through this legislation.

### Operating as a Quasi Hotel or Motel

- If either bill is passed, residential neighborhoods could see an increase in the quantity of transient housing. Transient housing and transient occupancy are terms generally used to describe temporary lodging provided by hotels and motels. Hotels and motels are both classified as commercial businesses and are not permitted in residential zoning districts specifically because of their commercial nature.
- The operation of a hotel or a motel in a residential district would negatively impact the quality of life of those residing in surrounding neighborhoods, a founding principle of zoning and a key component of zoning enabling legislation.
- Hotels and motels are required to meet various public-safety laws, including compliance with current fire codes, building codes, and zoning ordinances. Short-term rentals would not be bound by any of these requirements if either bill were to pass because short-term rentals would be considered equivalent to a single family owner occupied use.
- Classifying short-term rentals (one to four units) as a residential use with occupancy of up to twenty-eight (28) days also removes such dwellings from non-owner occupied residential registration and inspection programs. The legislation, if passed, would eliminate a local governmental unit's ability to enforce its police powers (i.e. zoning).<sup>9</sup>
- Hotels and motels pay taxes related to their commercial operations.<sup>10</sup> With the passage of this bill, property owners renting their homes for short-term purposes will be exempt from these taxes. This could place short-term rentals into direct competition with hotels, motels, and even traditional bed-and-breakfasts.
- The taxes collected from hotels, motels, and bed-and-breakfasts are typically used to support local tourism. If short-term rentals are not required to register or pay applicable taxes, local tourism and City tax revenues may be negatively affected.

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<sup>9</sup> *Id.*

<sup>10</sup> Heron, Matthew, *The Impact of Short-Term Rentals on Condominium and Homeowner Associations: To Airbnb or not to Airbnb?* Retrieved from <https://micondolaw.com/2015/11/23/the-impact-of-short-term-rentals-on-condominium-and-homeowner-associations-to-airbnb-or-not-to-airbnb/>

## Insurance, Blight, and Crime

- Short-term tenants may not feel the same responsibilities and obligations toward the well-being of a single family residential neighborhood.<sup>11</sup> If short-term tenants cause any harm to the property, there is a risk that the property will remain in such condition. As noted above, most homeowner insurance policies do not cover short-term rentals when a house is considered owner occupied. If damages occur for which the owner cannot afford to fix and insurance does not cover, local governmental units and property owners could expect to see an increase in blighted properties within their neighborhoods.
- Short-term rentals are considered a commercial use by most insurance companies. It is doubtful that homeowner's insurance policies will cover a home that is being commercially rented. As a result, the tenants/renters of the short term rental properties are without financial protection if they are injured and would only be able to recover against the homeowner. Homeowners may not have assets sufficient to cover the injuries. Airbnb states through its own agents that:

[w]hen someone rents a place on Airbnb, whether it is a room, or the whole dwelling, for a night, or for a week, it's NOT their residence. Airbnb hosts collect money and rent their dwelling to guests; it's no different than a hotel. Hilton does not carry a homeowner's policy; they carry a business insurance policy.<sup>12</sup>

- Reviewing several websites relating to short-term rental insurance demonstrates that for insurance purposes short-term rentals are viewed as businesses for commercial use.<sup>13</sup> Standard homeowner insurance does not cover commercial use of a property. Thus, regulating short-term rentals as a residential use is counterintuitive when they are insured as a commercial use and recognized as commercial by businesses facilitating short-term rentals.
- A property owner may not take into consideration the impact of an accident occurring while a short-term tenant resides in the dwelling. Further, since homeowner insurance

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<sup>11</sup> Heron, Matthew, *The Impact of Short-Term Rentals on Condominium and Homeowner Associations: To Airbnb or not to Airbnb?* Retrieved from <https://micondolaw.com/2015/11/23/the-impact-of-short-term-rentals-on-condominium-and-homeowner-associations-to-airbnb-or-not-to-airbnb/>

<sup>12</sup> See <http://learnairbnb.com/airbnb-liability-insurance/>

<sup>13</sup> See <http://cbizspecialtyinsurance.com/vacation-rental/>

<https://www.proper.insure/>

<http://www.nolo.com/legal-encyclopedia/insurance-questions-when-renting-out-your-home-short-term.html>

<http://learnairbnb.com/airbnb-liability-insurance/>

companies will most likely not cover a commercial operation in a single family residential dwelling, any damages or loss resulting from the tenant may not be covered.

### **Condominium and Homeowner Associations**

- Due to the nature of a short-term rental, the tenants will be less familiar with rules and regulations established by condominium and homeowner associations.<sup>14</sup> This increases the short-term tenant's risk of unknowingly violating said rules and regulations.
- Condominium and homeowner associations should consider safety issues that may arise when residing in a shared living space.<sup>15</sup> When renting a condominium or housing unit, the tenants will have access to common areas such as the hallways, clubhouse, gymnasiums, rooftops, lobbies, and parking structures that are typically reserved for owners and long-term tenants.<sup>16</sup>
- Condominium and homeowner associations, as per the State of Michigan Condominium Act (PA 0059 of 1978), have a responsibility to their unit owners and long-term tenants to enforce their bylaws. Having short-term rentals will hinder an association's ability to address liability exposure, real property damage, and safety concerns.<sup>17</sup> If an association's bylaws restrict rentals in any way, requiring them not to apply the same to short-term rentals "could be construed to constitute a *waiver* of such restrictions, or an association could be *estopped* to assert such restrictions at a later date if the restrictions are not enforced."<sup>18</sup>
- Online platforms that facilitate the use of short-term rentals are not responsible for damages that occur in common areas or for the misuse of shared equipment or services.<sup>19</sup> The burden would then fall on the condominium and homeowners association to repair the damages.

### **Conclusion**

Thank you for reviewing the City of Jackson's concerns regarding House Bill 4046. Please contact your legislators and voice your opposition to this bill in order to preserve local rental inspection programs, as well as the character of our residential neighborhoods.

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<sup>14</sup> *Id.*

<sup>15</sup> Goldman, Howard S., *The rise of Airbnb: What condominium associations need to know about short term rentals*. Retrieved from <http://www.goldmanpease.com/the-rise-of-airbnb-what-condominium-associations-need-to-know-about-short-term-rentals.html>

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Heron, Matthew, *The Impact of Short-Term Rentals on Condominium and Homeowner Associations: To Airbnb or not to Airbnb?* Retrieved from <https://micondolaw.com/2015/11/23/the-impact-of-short-term-rentals-on-condominium-and-homeowner-associations-to-airbnb-or-not-to-airbnb/>

<sup>19</sup> Goldman, Howard S., *The rise of Airbnb: What condominium associations need to know about short term rentals*. Retrieved from <http://www.goldmanpease.com/the-rise-of-airbnb-what-condominium-associations-need-to-know-about-short-term-rentals.html>

