

Neither housing nor hotel The emergence of “medium-term rentals” in post-Covid Canadian cities

David Wachsmuth  et Bridget Buglioni 

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Résumé de l'article

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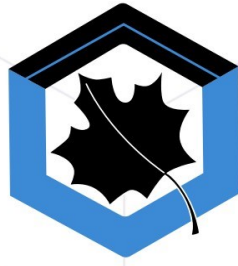


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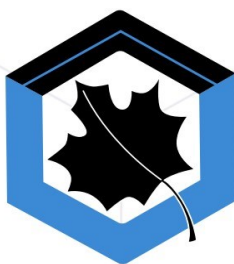
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Neither housing nor hotel: The emergence of “medium-term rentals” in post-Covid Canadian cities

David Wachsmuth^a  and Bridget Buglioni^a

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Abstract

One of the many impacts of the Covid pandemic on Canadian cities was the complete collapse of short-term rental (STR) markets, as long-distance travel nearly vanished for more than a year. Many dedicated STRs shifted back to the long-term rental market, but others remained on STR platforms such as Airbnb but with minimum stays of one month or more—a land use we describe as “medium-term rentals” (MTRs). This paper provides a planning analysis of online-platform-mediated MTRs in Canadian cities and their housing-market, land-use, and regulatory implications. First, we identify and explore the regulatory grey zone inhabited by MTRs, which appear to be neither standard residential tenancies nor short-term tourist accommodations. Second, the paper provides a brief empirical overview of the emergence of MTRs during and after the Covid pandemic in Toronto, Montreal, and Vancouver. Third, the paper uses a policy case study of situations in which Ontario’s Landlord and Tenant Board has been asked to adjudicate non-standard tenancies to establish whether there is a planning basis for distinguishing medium-term rentals from other tenancy types. The paper concludes by identifying a key planning principle which could allow Canadian municipalities to pull MTRs out of the regulatory grey zone: regulating type of stay instead of length of stay.

Résumé

L’un des nombreux impacts de la pandémie de Covid sur les villes canadiennes a été l’effondrement complet des marchés de location à court terme (STR), les voyages longue distance ayant presque disparu pendant plus d’un an. De nombreux STR dédiés sont revenus au marché de la location longue durée, mais d’autres sont restés sur des plateformes STR telles qu’Airbnb mais avec des séjours minimum d’un mois ou plus – une utilisation des terres que nous décrivons comme des « locations à moyen terme » (MTR). Cet article présente une analyse de planification des MTR médiatisés par des plateformes en ligne dans les villes canadiennes et leurs implications sur le marché du logement, l’utilisation des sols et la réglementation. Tout d’abord, nous identifions et explorons la zone grise réglementaire habitée par les MTR, qui ne semblent être ni des locations résidentielles standards ni des hébergements touristiques de courte durée. Deuxièmement, l’article donne un bref aperçu empirique de l’émergence des MTR pendant et après la pandémie de Covid à Toronto, Montréal, et Vancouver. Troisièmement, le document utilise une étude de cas politique portant sur des situations dans lesquelles la Commission de la location immobilière de l’Ontario a été invitée à statuer sur des locations atypiques afin de déterminer s’il existe une base de planification permettant de distinguer les locations à moyen terme des autres types de location. Le document conclut en identifiant un principe de planification clé qui pourrait permettre aux municipalités canadiennes de sortir les MTR de la zone grise réglementaire : réglementer le type de séjour plutôt que la durée du séjour. Le document conclut en identifiant un principe de planification clé qui pourrait permettre aux municipalités canadiennes de sortir les MTR de la zone grise réglementaire : réglementer le type de séjour plutôt que la durée du séjour.

Keywords:

Housing, medium-term rentals, policy reform, COVID-19, stay type

Mots-clés:

Logement, location à moyen terme, réforme politique, COVID-19, type de séjour

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Introduction

Since the launch of Airbnb in 2008, short-term rental (STR) platforms have provoked a transformation in residential land use. Previously, there was usually only a single viable way for residential property owners to earn ongoing revenue from their property—finding a long-term tenant. Short-term rental platforms introduced a second option—renting the property to tourists and other visitors for short-term stays. As travellers and property owners alike have become more comfortable with conducting peer-to-peer accommodation transactions, the use of STR platforms has proliferated.

Short-term rentals have been recognized as an urban planning dilemma for as long as it has been clear that they were becoming an important fact of life in large cities and small towns alike. This is in part because they were initially unregulated by most municipalities (Nieuwland and van Melik, 2018), in part because of the challenges they posed to quality of life in residential neighbourhoods (Gurran and Phibbs, 2017), and in part because of their negative impact on housing availability and affordability for long-term residents (Barron et al., 2020; Wachsmuth and Weisler, 2018).

What appeared to be a trajectory of continued short-term rental growth was unexpectedly cut short by the Covid pandemic. In Canadian cities like elsewhere in the world, the pandemic caused the complete collapse of STR markets, as long-distance travel nearly vanished for more than a year. Many dedicated STRs shifted back to the long-term rental market, but others remained on STR platforms such as Airbnb but with minimum stays of one month or more. We describe this land use as “medium-term rentals” (MTRs), in contrast to STRs and conventional long-term rentals (LTRs). These MTRs frequently catered to non-tourist accommodation needs (for example people spending several months in a large city because their loved one had an

extended hospital stay). And, because most jurisdictions define short-term rentals based on a certain maximum length of stay, MTRs are generally unregulated. As a result, they arguably introduce a new set of planning and land-use considerations for planners in contemporary cities.

In this article, we offer a planning analysis of the emergence of platform-mediated medium-term rentals, which we define loosely as rental agreements for periods of time of at least 28 days but less than one year, and which could occur either in the landlord’s principal residence or in a dedicated MTR dwelling unit. We argue that medium-term rentals exist in the grey zone between STR and LTR regulation—municipalities regulate the former and provinces the latter, with MTRs resting uneasily in between. But from a land-use perspective, MTRs are not a single residential land use. Rather, they occupy a blurry middle ground in the spectrum of short-term to long-term rentals. Through quantitative spatial analysis of multiple datasets of web scraped rentals ads, we present empirical evidence about the growth of medium-term rentals in Montreal, Toronto, and Vancouver. Then we present a qualitative case study of Ontario Landlord and Tenant Board cases involving ambiguous tenancies to establish whether there is a regulatory basis for distinguishing medium-term rentals from other tenancy types. Finally, we conclude by identifying a key planning principle which could allow municipalities to pull MTRs out of the regulatory grey zone: regulating type of stay rather than length of stay.

Short-term rental platforms and the housing market

Platform-mediated short-term rentals have been the focus of a large and growing body of planning research, albeit more so in the United States and Europe than in Canada. While early research into Airbnb and other online STR platforms was mostly

conducted by tourism scholars seeking to understand the implications of STRs for urban tourism and tourist accommodation market dynamics (Guttentag, 2015; Cheng, 2016; Oskam & Boswijk, 2016), more recently planners and geographers have investigated the extent to which STRs interact with the long-term housing market. Scholars have found evidence that landlords are replacing long-term tenants with short-term holiday rental guests, leading to a decline in housing supply and hence housing affordability (Lee, 2016; Schäfer & Braun, 2016; Gurran & Phibbs, 2017; Combs et al., 2020). Studies have linked increases in Airbnb listings to increases in house prices and rents (Barron et al., 2021; Horn and Merante, 2017), gentrification and displacement (Cocola Gant, 2016; Mermert, 2017; Wachsmuth & Weisler, 2018; Bosma & Van Doorn, 2022).

While there have been several analyses of STRs in various Canadian jurisdictions (Grisdale, 2021; Kerrigan & Wachsmuth, 2021; Wachsmuth et al., 2021a, 2021b, and 2021c), the only systematic analysis of STRs in Canada is Combs et al. (2020). They found high concentrations of STR activity and revenue in both spatial and per-host terms: prior to the pandemic, nearly half of all STRs in the country were located in the Toronto, Montreal and Vancouver regions, and roughly a majority of STR income was earned by fewer than 10% of hosts. They did not specifically address the question of medium-term rentals on STR platforms. The only such study of which we are aware is Llaneza Hesse et al.'s (2023) analysis of Barcelona before and after the Covid pandemic. They find that Barcelona's STR market shifted somewhat towards medium-term rentals

during the Covid pandemic. Compared to traditional STRs, MTRs were found to be more resilient to the generalized collapse of travel demand during the pandemic, an effect they attribute to the rise in so-called "digital nomads" (Nash et al., 2018) whose workplace locational flexibility facilitates a peripatetic lifestyle. The extent to which the shift to MTRs observed in Barcelona can be generalized to other parts of the world such as Canada—and the local planning and policy implications if such a shift is indeed occurring—remains to be explored.

The regulatory grey zone of medium-term rentals

Over the past decade, short-term rentals have become increasingly tightly regulated in Canadian cities. Many municipalities and several provinces now have rules in place which define short-term rentals as a type of land use or business activity, and most additionally impose some constraints on where, or under what circumstances, STRs are permitted to operate. Although ten years ago none of Toronto, Montreal or Vancouver had any policies in place about STRs, they now all have adopted relatively similar rules (Table 1). In each of these municipalities, a STR is defined as a temporary accommodation of no more than a certain number of nights, this land use is defined in the City's (or borough's, in the case of Montreal) zoning bylaw, a permit is required in order for a host to operate an STR, and STRs are generally restricted to a host's principal residence. (This rule varies by borough in the case of Montreal, but principal residence restrictions are active in the boroughs containing the large majority of the city's STRs.¹

¹. A "principal residence" is seemingly an intuitive concept: it is a person's main dwelling unit. This idea can be operationalized in several different ways, however—for example, length of time you inhabit different dwellings during the year, the address on your government identification, or the address where your tax documents are sent. This idea is complex, however. The City of Toronto defines the term for the purposes of enforcing its STR bylaw as "the residence where you live and the address you use for bills, identification, taxes and insurance" (City of Toronto N.D.). The principal residence definition used by the Canada Revenue Agency for tax purposes is quite different: it is a choice a resident can make among any homes they inhabit. Edge cases can also be tricky. For example, if a person owns a condominium in downtown Toronto and a cottage in Muskoka, and spends a plurality of nights each year at the cottage but has the condominium address on their driver's license, which is the principal residence? If someone rents an Airbnb for a six-month stay while maintaining a tenancy elsewhere, but during the stay they give up their tenancy, is the Airbnb now their principal residence? There is no single standard that would unambiguously adjudicate principal residency in these situations.

Table 1. Short-term rental regulations in Montreal, Toronto and Vancouver.

Municipality	Regulated in zoning bylaw?	Maximum length of stay	Permit required?	Principal residence only?
Montreal	In some boroughs	30 nights	Yes, from Province	In some boroughs
Toronto	Yes	27 nights	Yes, from City	Yes
Vancouver	Yes	30 nights	Yes, from City	Yes

At the other end of the length-of-stay spectrum, long-term rental housing is regulated provincially in Canada, and the provinces have broadly similar policy structures, including legislation which defines tenancies and sets out the rights and responsibilities of tenants and landlords, and a provincial tenancy board which oversees disputes. In Quebec, *the Code civil du Québec* regulates tenancies, and the Tribunal administratif du logement oversees disputes. In Ontario it is the Residential Tenancies Act and the Landlord and Tenant Board, respectively, and in British Columbia it is the Residential Tenancy Act and the Residential Tenancy Branch. None of these regulatory frameworks for long-term rental housing define tenancies in terms of length of stay. Once a landlord and a tenant enter into a tenancy agreement, the tenancy is active on the first day, and the rights and responsibilities of both parties remain constant for the entire length of the tenancy, which could continue indefinitely if the parties consent.

The fact that the three municipalities' rules define STRs as rentals of fewer than 28 or 30 days suggests, by contrast, that MTRs could be defined as rentals which are at least 29 or 31 days long.² But beyond this fact, there is no basis in either municipal or

provincial policy in any of these cities for distinguishing a medium-term rental from other types of residential rental agreements. In particular, none of the provincial legislation which defines and regulates tenancies makes any reference to minimum or maximum rental periods in its definition of a residential tenancy. In practical terms, the main dilemma is as follows: if someone books a stay of three months on Airbnb in Montreal, Toronto or Vancouver, municipal rules do not treat that stay as a short-term rental, and hence implicitly treat that stay as a long-term rental which should be regulated by provincial tenancy law. But it is highly unlikely that the guest would have signed a formal lease with the host of the unit, and additionally unclear whether provincial tenancy boards would consider the rental arrangement to be a tenancy, and grant the lessor tenancy rights such as protection from eviction. As we discuss in the case study of Toronto and Ontario below, cases which have come before the Ontario Landlord and Tenant Board imply considerable ambiguity concerning the conditions under which the Province would apply the Residential Tenancies Act to a medium-term rental.

² This one-month threshold for defining an MTR is not meaningful on its own terms; a threshold of six weeks or two months would not capture substantively different land uses. But, in a negative sense, the threshold is sensible because stays which are shorter than a single month are consistently treated as short-term rentals in municipal policy in Canada.

The situation that emerges in each of Montreal, Toronto and Vancouver is thus that MTRs have a kind of “negative definition”, where they exist in the grey zone between STR and LTR regulation. Unlike short-term rentals, medium-term rentals have no official definition in municipal policy in any of these cities. And unlike long-term rentals, medium-term rentals have no unambiguous definition in provincial policy. In theory this grey zone between the (provincial) regulation of long-term tenancies and the (mostly municipal) regulation of short-term rentals implies a regulatory space where medium-term rentals could be defined and regulated. But, in what follows, we argue that from a land-use perspective MTRs are not a single residential land use. Rather, they occupy a blurry middle ground in the spectrum of short-term to long-term rentals. On one end, some MTRs are effectively longer-term versions of traditional STRs: rental arrangements between tourists or other temporary visitors and hosts who rely on a platform to manage financial interactions and offer hotel-like services to their guests. On the other end, other MTRs are effectively shorter-term versions of traditional LTRs: rental arrangements between tenants who are either explicitly or implicitly attempting to establish a stable (even if time-limited) tenancy, and landlords who collect rents directly and do not offer hotel-like services. In the conclusion we discuss a “type of stay not length of stay” regulatory principle which could help municipalities resolve this grey zone.

Measuring and analyzing medium-term rentals: data and methods

It is nearly impossible to obtain a reliable estimate of the scope of the medium-term rental market in Canadian cities, since this land use type is not tracked by Statistics Canada, the CMHC, or any other governmental agency. Non-governmental data sources are more promising but, since MTRs inherently blur the lines between short-term and long

-term tenures, these rentals could plausibly be found on any of three categories of housing platforms: 1) STR platforms such as Airbnb, where MTRs are identifiable as listings with a minimum rental period of a month or more; 2) long-term rental platforms such as Craigslist, Kijiji, or Facebook Marketplace, where MTRs are usually not directly identifiable but where their presence may be inferred from other data points; and 3) dedicated MTR platforms, where MTRs are unambiguously identifiable but where a high level of fragmentation in the market makes it difficult to comprehensively count or analyze listings.

Here we assemble evidence about the trajectory of medium-term rentals in Montreal, Toronto, and Vancouver, drawing on STR and LTR platform data. Specifically, we combine two datasets. First, we use comprehensive estimates of activity on STR platforms Airbnb and Vrbo from January 2015 through May 2023 built off of raw data provided by the consulting firm Airdna. Airdna uses web scraping of the public Airbnb and Vrbo websites to gather, for each listing in the three cities, structural attributes (e.g. entire-home versus private-room rentals, approximate geographic location, and number of bedrooms) and daily activity (reservation status and price). Because STR platforms only publicly distinguish between properties which are available or not available, while “not available” could indicate either a reservation or a date which the host has blocked, Airdna uses machine learning models trained against known historical data to estimate whether non-available listings are reserved or blocked. These estimations are the only significant potential source of error in the data, and we mitigate this error by only using Airdna data in relatively large aggregates—e.g. listings aggregated per month and per census tract.

Our second dataset is weekly web scrapes of LTR platforms Craigslist and Kijiji from April 2020 through December 2022 performed by the first

author. Unlike the STR data in the first dataset, these scrapes are purely of rental advertisements; there are no availability calendars which would allow us to know whether or when a given listing resulted in an actual tenancy. As a result, we only rely on this data as an indicator of supply-side rental market activity—e.g. trends in asking rents or listing volumes. The analysis was conducted in the R programming language, and all the code is publicly available at <https://github.com/UPGo-McGill/mtr-paper-2023>. Table 2 provides a descriptive summary of these datasets.

We further supplement this quantitative analysis with a qualitative analysis of cases at Ontario’s Landlord and Tenant Board (LTB), where the LTB was asked to consider whether various types of non-standard rental arrangements qualified as tenancies under the Residential Tenancy Act. To identify cases, we conducted search with key terms “long term” and “short term” (to identify cases concerned with length of stay) and “vacation rental” and “seasonal” (since vacation rentals are exempt from the Residential Tenancies Act, and therefore are often used as a reason to claim the Act does not apply). Cases were chosen based on their relevance and potential influence on future decisions involving medium-term rentals. A total of 16 cases between 1993 and 2023 were examined. We use these cases

to establish whether there are plausible policy parameters that could distinguish medium-term rentals as a land use distinct from either short-term rentals or long-term rentals.

The trajectory of medium-term rentals in Montreal, Toronto and Vancouver

Evidence from STR platforms

Each listing hosted on STR platforms Airbnb and Vrbo has a “minimum stay” defined by the listing’s host; in cases where that minimum stay is 28 nights or longer, we consider the listing to be a medium-term rental. Figure 1 shows the percentage of listings and activity on Airbnb and Vrbo which is attributable to MTRs in each of the three cities. In some respects, the three cities display very different dynamics: in Montreal the share of MTRs has increased gradually over time, before a spike in early 2023 when the Province cracked down on illegal STRs in the wake of a fire in an STR in Old Montreal where seven people died. In Toronto, the share of MTRs surged dramatically in 2021 after the City introduced regulations requiring registration of all STR listings and restricting STRs to a host’s principal residence; Airbnb responded by shifting all listings which did not register with the city to 28-day minimums to avoid the need to remove the listings from its platform. In Vancouver, the share of MTRs

Table 2. Summary of quantitative datasets.

Dataset	Platforms	Data provenance	Time period	Unique properties	Total data points	Notable data features
Short-term rentals	Airbnb, Vrbo	Airdna	Jan. 2015 - May 2023	269,374	122,949,354	Daily estimates of activity, minimum stay length, nightly prices
Long-term rentals	Craigslist, Kijiji	First author	Apr. 2020 - Dec. 2022	967,171	3,296,469	Asking rents, furnished or non-furnished, rental period (Kijiji only)

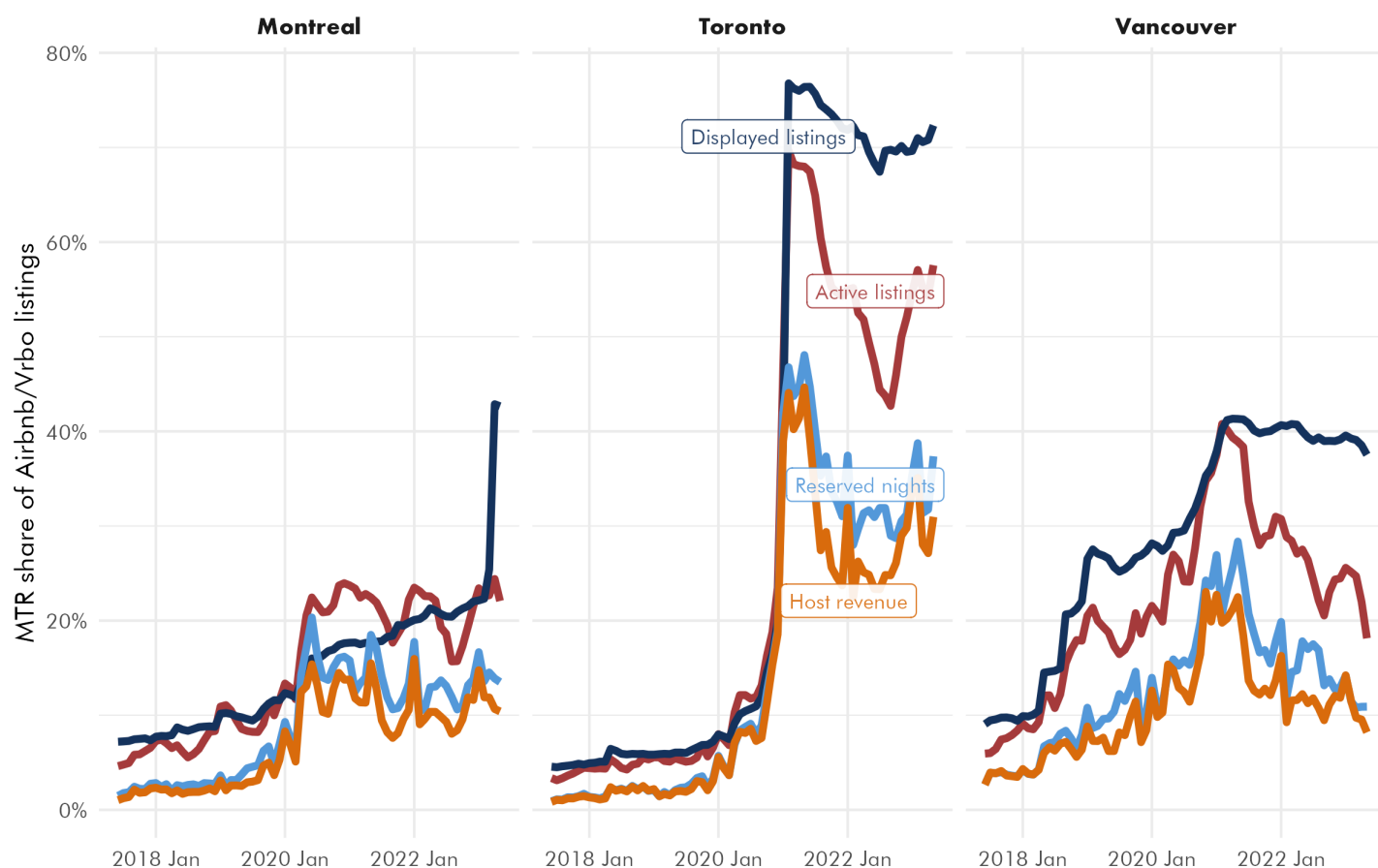


Figure 1. Medium-term rentals as a share of all listings on Airbnb and Vrbo in Montreal, Toronto and Vancouver.

increased more steeply than in Montreal, but without the sharp increase seen in Toronto. In this case it is again likely that regulation played a role: Vancouver banned non-principal residence STRs with rules that took effect over the course of 2018, which was the same time period in which the share of MTRs began to increase notably.

Despite these differences, however, there are four important respects in which the trajectory of MTRs has been similar across the three cases. First, as the previous paragraph suggests, the relative status of MTRs on STR platforms has been highly sensitive to the regulations surrounding STRs in each of the three cities. When STR rules tightened in each location, proportionately more activity on STR platforms shifted to medium-term rentals which are

not regulated municipally. Second, in all three cities the trajectory of MTRs as a share of overall STR platform activity increased significantly over the 2017-2023 time period. In Montreal, for example, MTRs' share of active listings (listings which were either reserved or available for reservations) varied between 22.1% and 24.4% in 2023, which is four times the size of the same share in 2017, which ranged from 4.6% to 6.6%.

Third, all three markets saw spikes in MTR activity during the Covid pandemic, likely because of the collapse in demand for short-term tourist accommodation. In December 2019, the MTR share of active listings on Airbnb and Vrbo was 11.6% in Montreal, 6.6% in Toronto and 20.4% in Vancouver. One year later, those shares had increased to 24.0%,

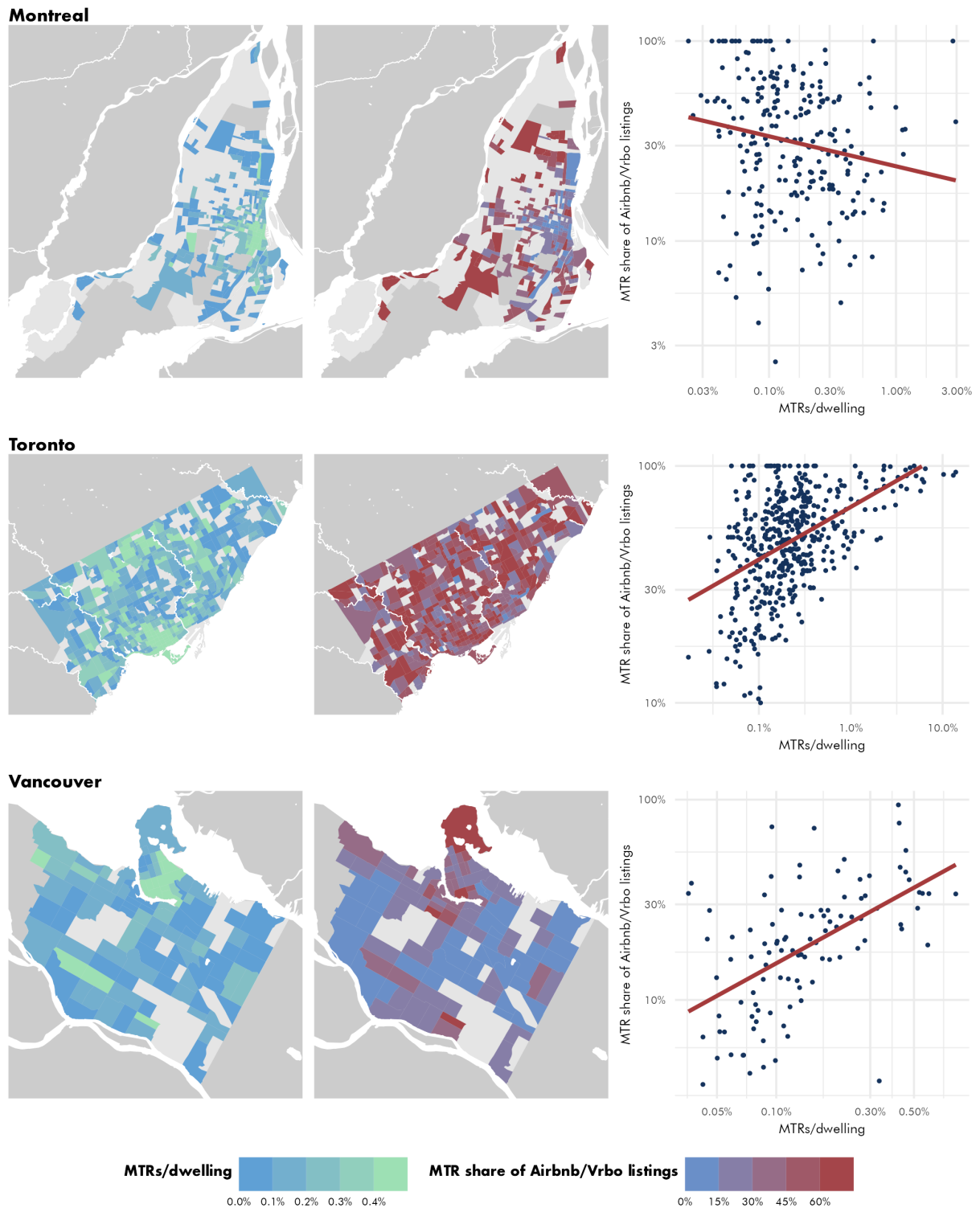


Figure 2. MTRs as a share of all dwellings (L) and all Airbnb/Vrbo listings (C) by census tract, with scatterplots (R), for tracts with at least one average daily active MTR, in Montreal, Toronto and Vancouver (May 2023).

23.5% and 35.6%—on average more than twice as high. In all three cities MTR shares have since declined somewhat from 2020 and 2021 peaks, but still by any metric a much higher share of total platform activity on Airbnb and Vrbo is medium-term rentals now compared to prior to the pandemic.

Finally, with almost no exceptions, the share of MTRs declines as we examine more active aspects of the STR market. In general, MTRs account for a high share of all displayed listings (listings which can be seen on the platforms whether or not they are actively in business), a lower share of active listings (listings which are reserved or available for reservations), a lower still share of reserved nights,

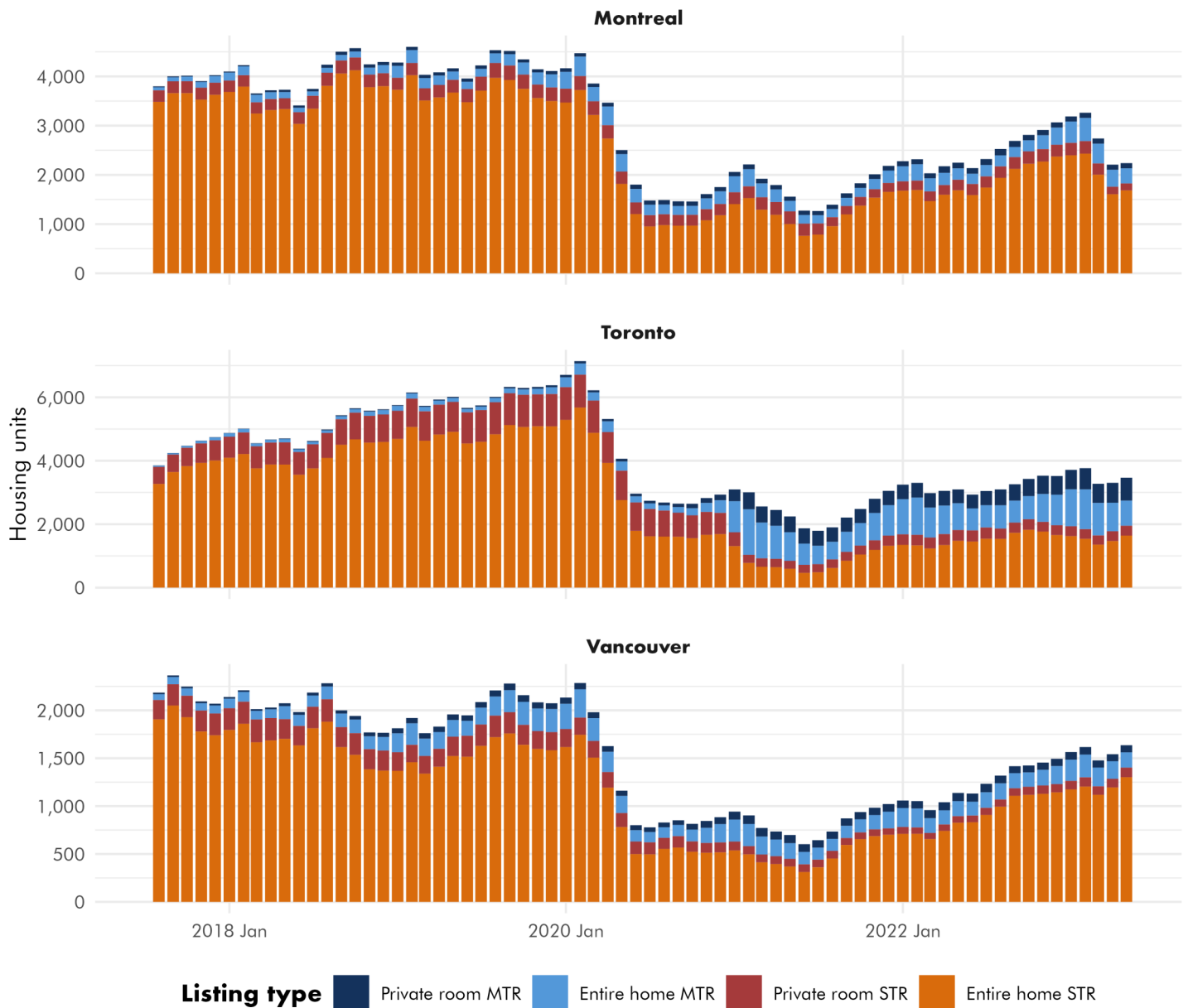


Figure 3. Housing units converted to dedicated STRs and MTRs in Montreal, Toronto and Vancouver (monthly average).

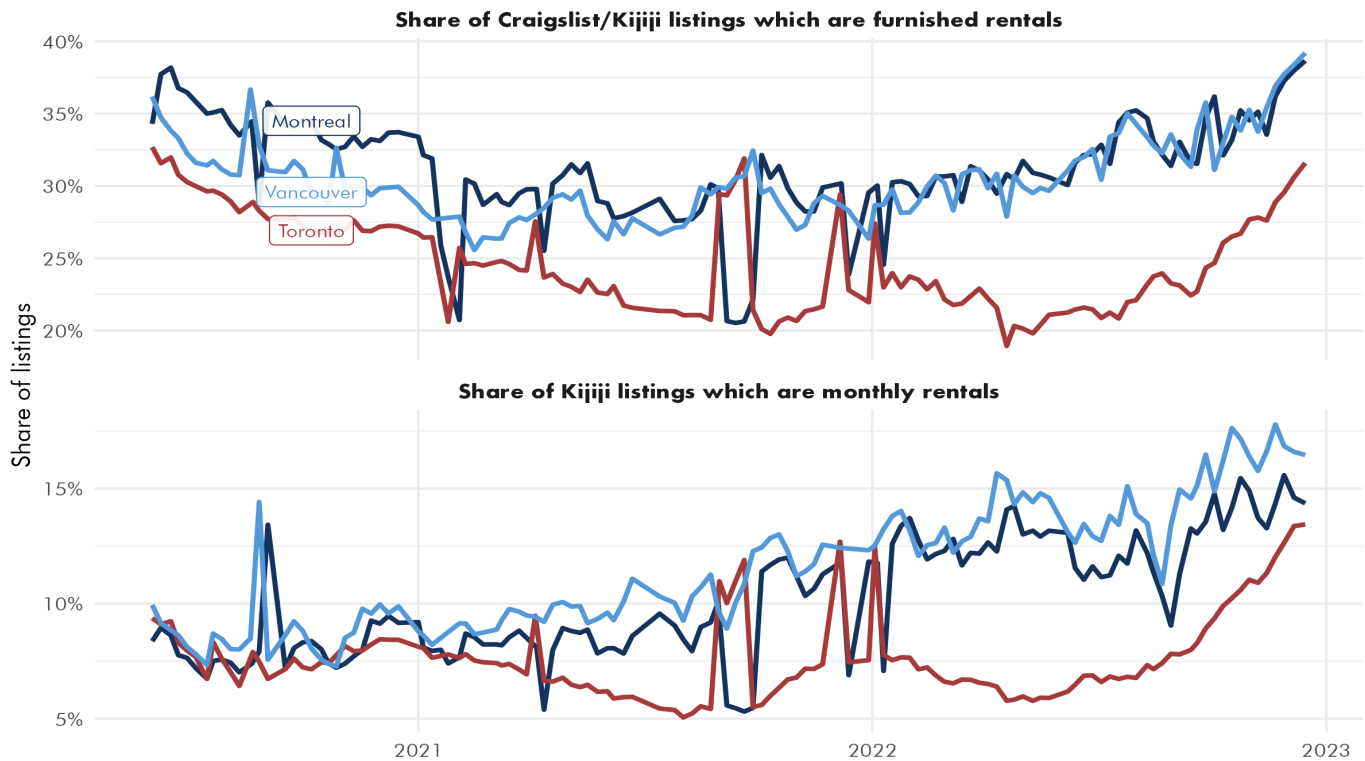


Figure 4. The share of Craigslist and Kijiji rental listings which are furnished (top) and the share Kijiji rental listings which are for “short-

and the lowest share of host revenue. This pattern suggests that, even as MTRs have become more prominent on STR platforms, they are lower performers—booked less often than STRs, and at lower prices.

Figure 2 shows the spatial distribution of MTR listings in Montreal, Toronto, and Vancouver, expressed in the left panels as a percentage of all housing units and in the centre panels as a percentage of all listings on Airbnb and Vrbo. The right panels show the per-tract relationship between these two variables. All three cities show notable concentrations of MTRs in per-dwelling terms (the left panels). In Montreal and Vancouver these concentrations are in and around the downtown, while in Toronto there is a concentration downtown alongside others in the inner suburbs. The middle

panels reveal much higher relative prevalence of MTRs on Airbnb and Vrbo in Toronto than in the other two cities, confirming the results of Figure 1. The most notable difference among the cities, however, is the relationship between per-dwelling and per-listing densities of MTRs. In Montreal, the per-dwelling density of MTRs is negatively correlated with the relative share of MTRs on STR platforms at the tract level ($\rho = -0.17$ for logged versions of each variable), while in Toronto ($\rho = 0.47$) and Vancouver ($\rho = 0.54$) these two indicators are positively correlated. Put differently, in Montreal, neighbourhoods with high shares of MTRs tend to have even higher shares of traditional STRs, while in Toronto and Vancouver, neighbourhoods with high shares of MTRs tend to have lower shares of traditional STRs.³ The most likely explanation for

³ These patterns are robust to different subsets of the data—for example, only entire homes or only non-condominium properties—which suggests that they do not reflect underlying built-form differences between the three cities.

this contrast is that, in Toronto and Vancouver, STR regulations have significantly constrained commercial STRs, while in Montreal they have not. In Toronto and Vancouver MTRs emerge as an alternative to STRs, while in Montreal MTRs accompany STRs in the most in-demand neighbourhoods.

A final perspective on the dynamics of medium-term rentals on STR platforms comes from examining the commercial end of the market—specifically, housing units which have been removed from the long-term rental market and converted to dedicated STRs or MTRs. [Figure 3](#) shows our estimates of the trajectory of housing units converted to dedicated STR and MTRs. In the case of entire-home listings (the orange and light blue bars on the graphs), we calculate the number of “frequently rented entire-home” (FREH) listings, which are listings reserved or available for reservations a majority of the year and with a 50 percent occupancy rate, on a seasonally adjusted basis. In the case of private-room listings (the red and dark blue bars on the graph), we calculate the number of clusters of private-room listings which are in fact a hostel-style subdivision of a single housing unit. (See Wachsmuth et al., [2021b](#) for more details on the methodology.) All three cities saw a sharp decline in the total volume of housing units operating as dedicated STRs or MTRs during the Covid pandemic, and all three cities have subsequently seen a rebound. More notably, all three cities have seen a substantial increase in the share of total dedicated STR/MTR activity accounted for by medium-term rentals. In April 2018, MTRs accounted for 4.8%, 2.1% and 5.4% of, respectively, Montreal, Toronto, and Vancouver’s total housing units operating as dedicated STRs and MTRs. Five years later, in April 2023, these proportions had climbed to 20.4%, 46.2% and 16.7%, respectively—a 3x increase in Vancouver, a 4x increase in Montreal, and a remarkable 10x increase in Toronto.

Evidence from long-term rental platforms

In addition to STR platforms such as Airbnb, medium-term rentals can also be offered on traditional long-term rental platforms. [Figure 4](#) shows the proportion of Craigslist and Kijiji rental ads which were furnished (top panel) and the share of Kijiji rental ads which were “short-term” (bottom panel) each week from April 2020 through December 2022 in Montreal, Toronto and Vancouver. (On the two platforms, these metrics are the closest available proxies for a non-long-term rental arrangement.)

The top panel of [Figure 4](#) demonstrates two distinct eras of furnished rentals on Craigslist and Kijiji. From the onset of the pandemic through late 2021, the share of all Craigslist and Kijiji rental ads that were furnished was gradually declining. This very likely reflects a surge in furnished rentals in the early days of the pandemic as dedicated STRs were returned to the longer-term market, and then a subsequent decline as that inventory was absorbed. Meanwhile, since late 2021, furnished rentals have been rising steadily as a proportion of all ads in all three cities, and as of the end of 2022 were at or very near their highest point: 38.7% in Montreal, 31.6% in Toronto, and 39.2% in Vancouver. At least some of the post-2021 divergence between Montreal and Vancouver (where the share of Craigslist and Kijiji rentals which are furnished has climbed quickly) and Toronto (where the share has not climbed as quickly) could be explained by the much higher prevalence of MTRs on Airbnb in Toronto. It is possible, in other words, that the proportionately lower presence of MTRs on Airbnb in Montreal and Vancouver is in fact more accurately understood as a redistribution of these listings to LTR platforms. The bottom panel of [Figure 4](#) shows the share of Kijiji listings which are month-to-month rentals. (Craigslist listings do not distinguish among tenure lengths.) The bottom panel tells a broadly similar story to the

top panel. It shows a steady increase in this share among all three cities, again with a noticeable gap between higher values in Montreal and Vancouver and lower values in Toronto.

Given the lack of any major changes in the trajectory of MTRs on Airbnb and Vrbo since 2022 (in all three cities we studied, the major growth of MTRs on STR platforms occurred earlier in the Covid pandemic), the recent robust growth in MTRs on Craigslist and Kijiji is particularly notable. It is a plausible assumption that the users of LTR platforms would contain a higher proportion of local residents than users of STR platforms. If MTRs are recently growing more quickly among the former than the latter, this also implies that MTRs may increasingly be meeting local demands. For example, in the post-

pandemic housing markets typical of Canadian cities, which have seen rental vacancy rates drop and rents increase quickly, medium-term rentals may be playing a larger than previous role in addressing the housing needs of local residents who are having difficulty accessing traditional long-term rentals.

Comparative evidence from short-term and long-term platforms

Our last piece of evidence about the dynamics of MTRs in Montreal, Toronto and Vancouver comes from a comparative analysis of the asking prices for these listings compared to traditional STRs and

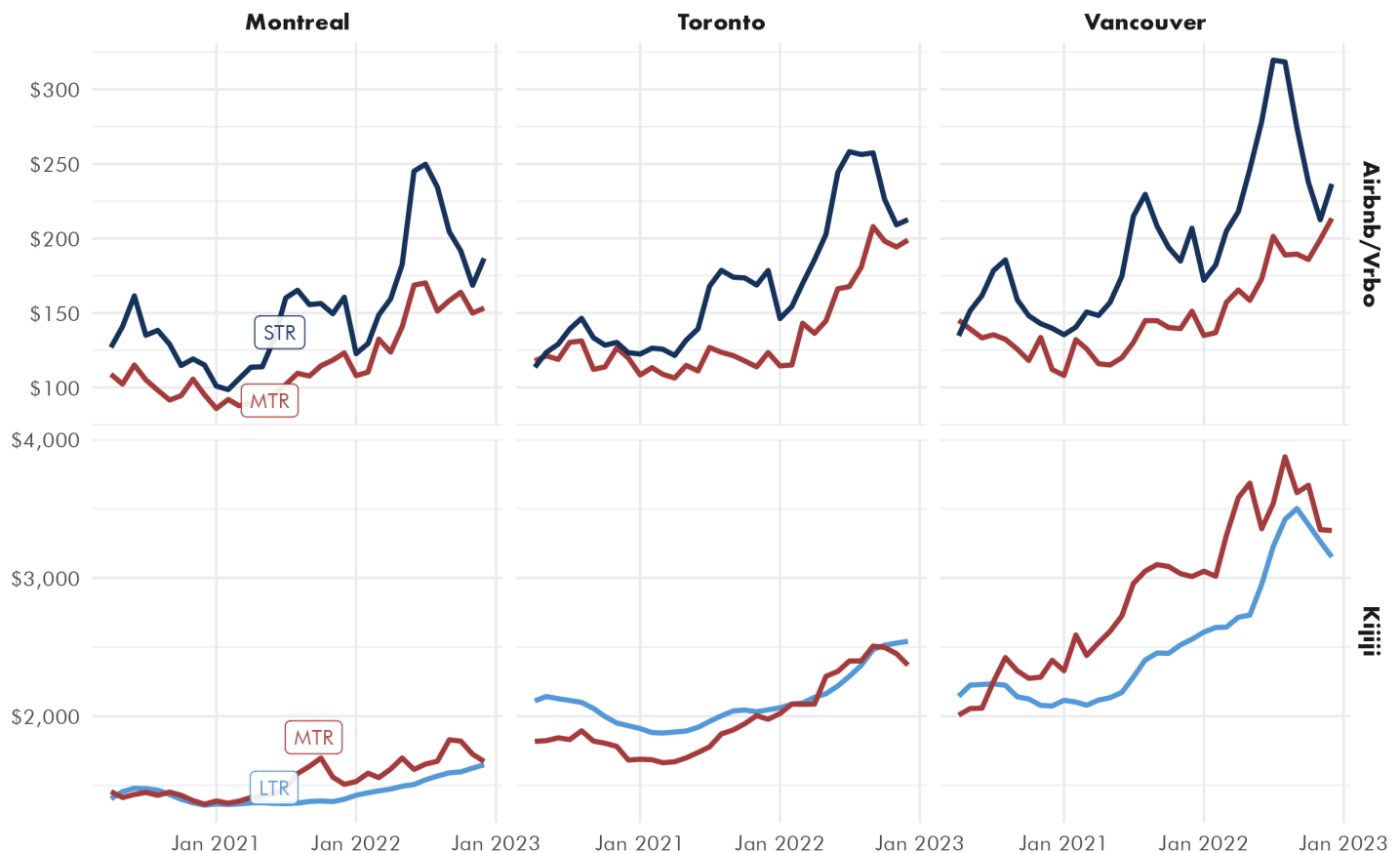


Figure 5. Average nightly prices for STRs and MTRs on Airbnb and Vrbo (top) and average monthly asking rents for LTRs and MTRs on Kijiji (bottom) in Montreal, Toronto and Vancouver (monthly average, April 2020 - December 2022).

LTRs. Figure 5 shows the average nightly prices for STRs and MTRs on Airbnb and Vrbo (the top panels) and the average monthly asking rents for LTRs and MTRs on Kijiji (the bottom panels). All six panels shows strong growth since 2021—after some instability in the early months of the Covid pandemic, the price of accommodation has been increasing in all three cities regardless of the length of stay. Also, with the partial exception of Toronto’s LTR market, there is a clear price hierarchy between STRs, MTRs and LTRs, with the former having the highest prices, the latter the lowest, and MTRs in between. This finding supports the conclusion that MTRs occupy a land-use “middle ground” between short-term and long-term accommodations. Another finding which supports the same conclusion is that, within each city, MTR prices between platforms are highly correlated with each other, and in some cases more highly correlated than MTR prices are with the STR or LTR prices on the same platform. For example, in Montreal, the correlation between nightly MTR prices on Airbnb and Vrbo and monthly MTR prices on Kijiji is $\rho = 0.84$. This correlation is lower than the correlation between nightly MTR prices and nightly STR prices on Airbnb and Vrbo ($\rho = 0.91$), but higher than the correlation between monthly MTR prices and monthly LTR prices on Kijiji ($\rho = 0.73$).

The balance of evidence suggests that: 1) MTRs have been growing in each of Montreal, Toronto and Vancouver, initially in the early days of the Covid pandemic as STRs were shifted to longer-term bookings, and more recently as furnished and monthly rentals have become an increasingly large proportion of the inventory of long-term rental platforms; 2) MTRs are neither “longer-term STRs” nor “shorter-term LTRs”, but rather represent a (potentially wide) range of tenure arrangements which are not neatly captured by either the short-term or long-term rental categories.

Policy case study: The regulation of medium-term rentals at the Province of Ontario’s Landlord and Tenant Board

To illustrate the regulatory complexities which MTRs introduce into Canadian cities, we now provide a case study of cases heard by the Province of Ontario’s Landlord and Tenant Board (LTB) involving ambiguous tenancies. We use this case study to establish whether there is a regulatory basis for distinguishing medium-term rentals from other tenancy types. Our review suggests that the tenant’s intended use of the dwelling has often been the key factor in whether the RTA would be applied to an MTR rental agreement, but a recent case of an Airbnb MTR implies an emphasis instead on accommodation type which is difficult to reconcile with previous LTB rulings. The conclusion we reach is that medium-term rentals fall into a land-use and regulatory grey zone in Toronto. As previously established, MTRs are not regulated by the City’s STR rules. But we find here that they are also not treated unambiguously as long-term rentals, either in the text of the Province of Ontario’s Residential Tenancies Act (RTA) or in the rulings of the LTB. MTRs thus expose ambiguities in provincial tenancy rules which municipal planners will need to be aware of and eventually address

The legal leasing framework for medium-term rentals

Medium-term rentals exist in a regulatory grey zone in Toronto. Their tenancies are often established through online platforms which also facilitate short-term rentals, and these tenancies frequently share important characteristics with STRs, such as an indirect relationship with the landlord (because payments and reservations are processed through a third party). Even so, they are explicitly excluded from the City’s STR regulations, which define STRs as stays of fewer than 28 nights. At the same time, it is not *prima facie* obvious that MTRs are traditional

tenancies governed by the Province of Ontario's RTA)—for example for the aforementioned reason that they are typically mediated through a third party which manages payments and reservations, and moreover because, as we discuss below, there is usually no formal lease signed between landlord and tenant.

Some dedicated MTR platforms explicitly state that they do not consider their rentals to be tenancies. For example, the terms and conditions for rental company Premier Suites declares: “This Short-Term Rental Agreement falls outside the scope of any provincial or territorial Landlord and Tenant Act or Residential Tenancies Act” (Premier Suites, 2022). Simply making this claim does not guarantee that the Ontario Landlord and Tenant Board (LTB) would decide not to treat Premier Suites as long-term tenancies. But the agreement plainly does not actually govern “short-term rentals” as they are defined by the City of Toronto, since Premier Suites’ listings have a 30-night minimum stay. Are MTR stays long-term rentals, or something else?

Is there a standard lease between MTR operator and renter?

Medium-term rentals—in the simple sense of rentals which are longer than 28 days but shorter than twelve months—are legal in the conventional long-term rental market. The “standard lease” in Ontario, which is mandatory for residential tenancy agreements, allows for rental periods of fewer than twelve months. For example, if a landlord and tenant mutually agree to a six-month rental period and sign a standard lease to that effect, there would be no question that the tenancy would be protected under the RTA.

As we discuss below, the LTB would likely find that stays of a transient nature in which the renter is not establishing a principal residence would not be considered long-term tenancies requiring a standard lease and subject to the oversight of the LTB, even

when such stays are 28 days or longer. In these cases MTRs are not meant as a substitute for long-term rentals, and many online platforms advertise MTRs as accommodations for temporary stays such as corporate stays, medical stays, and insurance housing. We have found no evidence to suggest that the standard lease is commonly used for bookings of 28 days or longer on Airbnb and other short-term rental platforms. These platforms do not facilitate the signing of a lease, and in many bookings the landlord and the guest may never meet.

The legal situation is less clear for tenancies arranged via dedicated online platforms where the tenants are attempting to establish their principal residency. Particularly as the Toronto rental market features low vacancy rates and high rents, it is plausible that MTRs are being used as principal residences in growing numbers. In a recent case involving a medium-term Airbnb rental, discussed in more detail below, the tenants requested a standard lease agreement between themselves and the hosts, to which the host declined. One of the few MTR sites with any mention of tenancy agreements is a site geared to students called amberstudent.com. This rental site offers a range of tenancies, including 13 weeks (a summer internship stay period), 17 to 21 weeks (the length of one semester), and 52 weeks. The terms and conditions on amberstudent.com state that the terms of the rental are the responsibility of the advertiser (landlord) and the student. This implies there may be a lease between the landlord and tenant, although it is not clear what type of tenancy agreement the rentals will be.

Are MTR renters protected under the Residential Tenancies Act?

The Ontario LTB has sometimes overseen cases where one party (either landlord or tenant) in a rental arrangement involving an accommodation type that departs from a typical long-term rental—such as a hotel, motel, vacation home, or other

accommodation commonly used seasonally or for travel purposes—has made the argument that the arrangement is a legal tenancy and the Residential Tenancies Act should be applied. By examining these cases, we can establish plausible parameters under which MTR renters might or might not be protected under the RTA. In these cases the intended use of the accommodation and the accommodation type are both commonly examined by the LTB. Our analysis suggests that the intended use has often been the key factor that the LTB considers—and particularly the question of whether the tenant has established their principal residency in the dwelling unit. But a recent case focusing specifically on an Airbnb MTR implies an emphasis instead on accommodation type which is difficult to reconcile with previous LTB rulings.

Generally speaking, hotels and other dedicated tourist accommodation types are not regulated via the RTA, but rather by a set of tourism-related legislation such as the Innkeepers Act. Section 5(a) of the RTA states the Act does not apply to:

living accommodation intended to be provided to the travelling or vacationing public or occupied for a seasonal or temporary period in a hotel, motel or motor hotel, resort, lodge, tourist camp, cottage or cabin establishment, inn, campground, trailer park, tourist home, bed and breakfast vacation establishment or vacation home.

Often landlords argue the RTA should not apply to a rental arrangement when the dwelling unit is what might usually be considered a tourist accommodation, such as a hotel. However, in cases where the tenant intended to stay long-term, the LTB has decided to apply the RTA instead of deferring to the Innkeepers Act—as there is the possibility that these accommodation types intended for the

travelling public can instead be used for long-term residency.

The LTB has in fact ruled that the RTA applied to rental arrangements involving tenants living in a hotel, cottage, mobile home, or resort property (CET-00058 (Re), 2007; CET-70868-17 (Re), 2018; TEL-86057-17-IN (Re), 2018; TET-56104-15 (Re), 2015; *Matthews v. Algoma Timberlakes Corporation*, 2010; TET-90433-18-IN (Re), 2018; *Da Silva v 462226 Ontario Ltd.*, 2021). The issue of tenancy in the eyes of the LTB has appeared to be less a question of the accommodation type but rather of whether the intention of the tenant is to use the dwelling as a permanent residence or not. Despite many landlords arguing their properties are exempt under section 5(a), in a number of cases the LTB decided to apply the RTA on the basis that residential tenancies are not excluded from the Act based on accommodation type alone.

The relatively robust set of LTB cases establishing RTA protections in situations where someone established a principal residency in a tourist accommodation dwelling type would seem to imply that many MTRs would also be regulated by the RTA. Many (and probably most) Toronto MTRs are operated out of dwellings which would generally be used as residences—such as condos, townhouses, or single-family houses—as opposed to dwellings primarily used for the travelling or vacationing public. While some of the platforms which offer MTRs (Airbnb being the most important example) are primarily marketed towards tourists, dedicated MTR platforms generally market their listings towards corporate stays, medical stays, people who are between homes, recent immigrants, young professionals, and students. Many individuals in these groups could plausibly be expected to establish principal residencies in an MTR, and such MTR renters might also expect to have their tenancy protected under the RTA.

A 2023 LTB case (Porter v. Ning (Wong), 2023), in which a family was evicted from their Airbnb, suggests that these expectations might be mistaken, and highlights how the legal grey area involving MTRs leads to uncertainty and precarity for renters. The case concerns a family that booked an Airbnb property in Toronto for a 10-month stay. With six months left on their stay, the property owners asked the family to leave because they wanted to re-establish residence of the unit (O'Brien et al., 2023). The ruling from the Ontario LTB found the rental was exempt from the RTA, meaning the landlords were within their right to evict the family without the usual notice, despite the six months left on their Airbnb booking (O'Brien et al., 2023).

In reaching its decision in the case, the LTB considered the questions of landlord and tenant intent. The landlord argued that the property was intended for the travelling or vacationing public, and therefore exempt under 5(a) of the RTA. But the Board also found that it should consider the intent of the renters at the original time of their rental agreement, and whether that intent changed throughout the course of the rental period. Notably, the Board suggested that the situation in this case was distinguishable from a long-term rental lease since there was no discussion of an extension of the rental after the end of the rental agreement. (However, one could argue that is not standard to discuss the potential extension of a lease agreement at the beginning of a lease.) In order to prove that the family was not vacationing but in fact living in the unit, the tenant argued that she continued to work from home, and produced a number of documents such as credit cards, utility receipts, and her children's report cards with the rental unit listed as the address.

The Ontario LTB ultimately decided that the RTA did not apply to the tenancy due to the exemption under section 5(a) of the Act, and

supported their decision with the following evidence: the property was booked through the vacation rental site Airbnb; payments were made through Airbnb; early in the stay the tenants requested to enter a standard lease agreement but the landlord declined; the rental arrangement was mutually understood to be for a fixed period; the services included in the rental such as furnishings, linens, and soaps, are typical of a vacation rental services; and both parties did not agree to change the nature of the agreement. In previous cases the LTB applied the RTA to tenancies in typical vacation accommodations because the tenant was not considered a travelling or vacationing patron. That logic would have implied a finding in this case that the RTA should apply. In this case, however, the decision appears rooted more in the nature of the accommodation type than the relationship of the tenancy.

Home-sharing arrangements in the medium- and long-term rental market may also fall into grey areas in regard to tenancy laws and agreements. Within the Ontario Residential Tenancies Act, section 5(i) states the act does not apply to:

living accommodation whose occupant or occupants are required to share a bathroom or kitchen facility with the owner, the owner's spouse, child or parent or the spouse's child or parent, and where the owner, spouse, child or parent lives in the building in which the living accommodation is located;

Previous LTB cases suggest a high evidentiary standard necessary for the Board to decide to apply the RTA (TET-81989-17 (Re), 2017; TET-87914-18-IN-AM (Re), 2018; Walsh v Lee, 2022; NOT-00718-09 (Re), 2009). Specifically, in the cases where there was evidence the landlord occupied the residence with the tenants, the tenants were not protected under the RTA.

The implication is that the segment of MTRs that overlaps with home-sharing arrangements (a still common use case on Airbnb, for example) may not be protected under the RTA even if the tenants of these MTRs are intending to establish their principal residency there. Renters in home sharing arrangements exempt from the RTA under section 5 (i), regardless of tenancy length, may find themselves in precarious rental agreements, and at risk of eviction without notice.

When would the LTB consider an MTR to be a tenancy?

Since Ontario does not have any specific legal framework regulating medium-term rentals, whether the LTB would apply the RTA to cases involving this tenure type will vary case-to-case, as the previous discussion indicates. The following non-exhaustive list from previous LTB hearings describes situations where the LTB decided to apply the RTA to ambiguous rental arrangements. To the extent that past precedent predicts future TBD decisions, the presence of any of these circumstances would tend to increase the likelihood that the RTA would be applied.

- There is no initial agreement between the tenant and landlord that the stay is temporary.
- There is no visible posting or information in the unit pertaining to the Innkeepers Act, which is required by that Act.
- The tenant does not receive housekeeping services, or laundry services.
- The tenant is not provided with any toiletries.
- The accommodation is not furnished or fully furnished—this strengthens the case the tenancy falls under the RTA, although long-term tenancies can also be furnished.

- The tenant pays monthly rates rather than nightly, or weekly.
- The tenant has no other permanent address, or any other home to live in.
- HST/GST is not charged with the rent.
- The tenant does not receive payment receipts.
- The tenant occupies the unit beyond a seasonal stay period.
- The tenant pays a utility bill.
- The tenant pays first and last month's rent.
- There is no telephone line or common phone system in the unit.
- The landlord only advertises the unit locally, and not to the broader vacationing public.
- The tenant receives mail to the unit.
- The landlord seeks rent increases.

If a tenant can prove they intended to use the dwelling as a residence, some combination of the above evidence may strengthen their case. Despite accommodation types being labelled as hotels, B&B's or other typical vacation accommodations, intent to use the accommodation as a residence has often persuaded the LTB to apply the RTA—although the most recent Airbnb case ruling discussed above offers a contradictory example.

Although there are MTR sites that claim their services fall outside the RTA, in some LTB hearings where tenants signed contracts explicitly stating the rental falls under the Innkeepers Act, the board still decided to apply the RTA to the tenancy (CET-70868-17 (Re), 2018; *Foster v. Lewkowicz*, 1993). In other words, even direct tenant acknowledgement that a rental is not subject to

tenancy laws may not be enough evidence to prevent the LTB from applying the RTA.

Meanwhile, some of the evidence that the LTB relied upon in cases where it decided not to apply the RTA included: a landlord providing services to tenants such as linens or housekeeping; and a unit which could not be occupied year round (even where there was a individual renting the unit for multiple years) because of a lack of basic services such as hot water—implying the unit is not meant to be used for permanent residency (TET-72326-16-RV (Re), 2017).

However, even with strong evidence a unit is intended to be used for vacation purposes, there are several cases where the LTB still decided to apply the RTA. In one case in particular, despite the building displaying a notice regarding the Innkeepers Act, the tenant paying rent on a daily basis instead of monthly, and the tenant having a permanent address listed elsewhere at the time of original check-in—all of which do not suggest long-term residency. Nevertheless, the LTB still applied the RTA on the basis that the tenant intended to occupy the unit for residential purposes and that the landlord failed to prove the property was used predominantly for vacation accommodation (Foster v. Lewkowicz, 1993). This case suggests that, even if a property management company or landlord states that their rental falls outside of any residential tenancy acts—a scenario which in fact describes several MTR platforms operating in Toronto—it is difficult to determine whether the RTA would be applied in an LTB hearing. A dwelling type may be intended for temporary use, but that does not mean it must be only used temporarily.

Considering the balance of evidence in the LTB cases we examined, it is likely the RTA could be applied to a significant number of MTRs in Toronto as long as the tenant intends to occupy the unit as their principal residence. But it is equally clear that

there is no single test that could predict whether the RTA would be applied, and that both planners and residents should expect a high level of unpredictability in grey area between short-term and long-term rentals.

Takeaways for planners: Resolving the medium-term rental grey zone

In this article, we have offered a planning analysis of the emergence of platform-mediated medium-term rentals. Using a combination of quantitative evidence from STR and LTR platforms and a qualitative case study of cases at Ontario's Landlord and Tenant Board, we have argued that medium-term rentals exist in the grey zone between STR and LTR regulation, and that this grey zone specifically reflects a gap between the land use which MTRs represent and the regulatory environment around MTRs. From a land-use perspective, MTRs are not a single residential land use. Rather, they occupy a blurry middle ground in the spectrum of short-term to long-term rentals. We now conclude by identifying a key planning principle which could allow municipalities to pull MTRs out of the regulatory grey zone: regulating type of stay instead of length of stay.

The planning dilemma is as follows: MTRs have exposed ambiguity in the dividing line between traditional long-term rentals, which are regulated by provincial tenancy law, and short-term rentals, which are not. Municipalities typically regulate STRs by defining a certain maximum length of stay, but in practice this definition has led to an increasing amount of 'regulatory leakage', with medium-term rental arrangements falling outside the remit of STR rules but also apparently outside the remit of provincial tenancy law (although below we address the question of whether provincial tenancy law should be revised). Municipal planners do not have the luxury of redefining provincial tenancy law, so to resolve this ambiguity they should instead revisit the

definition of STRs, and specifically the central role of length of stay in that definition.

Both our analysis of the MTR market in Montreal, Toronto and Vancouver and our scan of LTB cases in the Province of Ontario suggest that length of stay is a fundamentally unreliable way to establish whether a rental arrangement is a proper tenancy or simply a transient visit. This is true from the perspective of the circumstances under which provincial housing tribunals would apply tenancy law: a two-month stay where the tenant intended to establish principal residency seems more likely to be granted tenancy protection than a two-year stay where the tenant did not intend to establish principal residency, for example. But this is also true from the perspective of the policy goal—shared by all three municipalities—of preserving and expanding the supply of affordable housing: a housing unit that is converted to temporary accommodations for the visiting public is fundamentally housing that is lost to residents regardless of how long or how short the relevant rental agreements are.

Currently, all three municipalities define short-term rentals as, in part, rentals of fewer than 28 or 31 days. It is very likely that most or all stays of fewer than 31 days are intended to be temporary, and thus that most or all of the activity captured by these municipal regulations does have the character of non-tenancy, transient occupancy. The reverse is not true, however. Many stays that are a month or longer are nevertheless of a transient character, and share fundamental similarities with short-term rentals. In other words, much MTR activity has the character of the activity captured by Montreal, Toronto and Vancouver's definitions of "short-term rental", despite being formally excluded from those definitions.

How could municipal planners address this mismatch? One way would be to explicitly define medium-term rentals in the zoning bylaw and

develop specific regulations to control their use. However, as we have discussed above, MTRs are arguably not a single discrete land use, but rather encompass some STR-like land uses and some LTR-like land uses in the blurry area separating the two. Another, simpler approach would be for municipalities to redefine STRs in their zoning bylaw to drop any reference to a maximum length of stay, and instead to offer a definition based on the type of usage which occurs in the property. Specifically, municipalities could define short-term rentals based on the means of a property's rental as opposed to the length of its rental. An STR platform could be defined as a housing rental platform which not only displays listings on behalf of hosts but also performs the bulk of the mediation between hosts and guests, including collecting and processing payments, handling disputes, and policing the behaviour of both hosts and guests. This definition would cover Airbnb, Vrbo and other similar platforms. Rental agreements on these platforms are rarely if ever formalized through a standard lease, and our case study of Ontario's LTB suggests that it would be highly unpredictable whether provincial tenancy laws would be applied to these rental agreements in the event of a dispute. A short-term rental would then be defined as a property offered for rent on an STR platform.

By contrast, other online housing platforms (for example Facebook Marketplace, Craigslist and Kijiji), which simply allow for the advertisement of properties but do not perform any important mediation function between landlords and tenants, would not be defined as STR platforms. Prospective tenants use these platforms to identify possible apartments, but all the business of concluding a tenancy arrangement is conducted directly between the parties. These rental agreements are usually formalized through a lease. It is highly likely that provincial housing tribunals would decide to apply tenancy law to these rental agreements in the event of a dispute, regardless of whether the rental period was

less than 12 months long. Properties offered for rent on these platforms would not be defined as STRs, regardless of the length of the rental period.

This approach, when compared to the current regulatory status quo, would better align municipal land use regulations with both provincial housing laws and with the substantive goals of municipal housing policy. If Ontario's LTB is going to decline to apply provincial tenancy law to a (currently unregulated) MTR on Airbnb even when the renter was trying to establish their principal residence there (as in the LTB case discussed in the previous section), then arguably the City of Toronto should be treating that MTR the same way it would treat any other temporary rental on Airbnb—requiring its host to register, and only permitting it to be operated in the host's principal residence. More generally, in cases where the intended usage of the MTR unit is temporary accommodation for a member of the travelling public, there is no reason why an MTR should be exempt from municipal STR rules which are in part designed to protect the supply of housing for residents.

The assumption of this discussion is that it will be a municipal responsibility to clarify the regulations around medium-term rentals. We have made this assumption because regulating STRs has generally been a municipal task in Canada accomplished under land-use controls, and because many MTRs are fundamentally “longer-term STRs” which have no prospect of being regulated via provincial tenancy laws. These two facts mean that, under any conceivable provincial tenancy framework, municipalities will still face the increasingly urgent task of deciding how longer-term stays which do not involve guests establishing their principal residency in the dwelling unit should be treated with respect to existing STR regulations.

At the same time, our case study of the Ontario LTB suggests that provincial tenancy law would

benefit from increased clarity around shorter-term stays. It is understandable that this clarity has so far been lacking, since Airbnb and other STR platforms are a relatively recent phenomenon in Canadian housing markets. But even if the bulk of their usage concerns tourist accommodation as opposed to rental tenancies, there is no doubt that tenancy boards will be asked to adjudicate future cases involving these platforms. To the extent that provincial tenancy laws can be modified to explicitly clarify the boundaries between rental arrangements which will be treated as tenancies and rental arrangements which will not be, this will provide greater certainty for landlords and tenants, as well as for municipal governments deciding on the boundaries of their own STR regulations.

In any case, there are now thousands of MTRs already operating in cities across the country, provincial housing tribunals are unlikely to uniformly extend tenant protections to medium-term renters on Airbnb, and housing scarcity and high housing costs are likely to drive more Canadian renters into the MTR market in the future. This suggests that clarifying the regulatory framework around medium-term rentals will be an increasingly urgent task for municipal governments in Canada

Notes on Contributor

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References

- Barron, K., Kung, E., & Proserpio, D. (2021). The effect of home-sharing on house prices and rents: Evidence from Airbnb. *Marketing Science*, 40(1), 23-47.
- Bosma, J. R., & van Doorn, N. (2022). The gentrification of Airbnb: Closing rent gaps through the professionalization of hosting. *Space and Culture*.
- Cheng, M. (2016). Sharing economy: A review and agenda for future research. *International Journal of Hospitality Management*, 57, 60-70.
- City of Toronto. (No date). *Short-Term Rental Operators/Hosts*.
- Cocola Gant, A. (2016). Holiday rentals: The new gentrification battlefield. *Sociological Research Online*, 21(3), 1-9.
- Combs, J., Kerrigan, D., & Wachsmuth, D. (2020). Short-term rentals in Canada. *Canadian Journal of Urban Research*, 29(1), 119-134.
- Foster v. Lewkowicz, (Superior Court of Justice June 28, 1993). <https://canlii.ca/t/g16n8>
- Grisdale, S. (2021). Displacement by disruption: Short-term rentals and the political economy of “belonging anywhere” in Toronto. *Urban Geography*, 42(5), 654-680.
- Gurran, N., & Phibbs, P. (2017). When tourists move in: how should urban planners respond to Airbnb?. *Journal of the American Planning Association*, 83(1), 80-92.
- Guttentag, D. (2015). Airbnb: disruptive innovation and the rise of an informal tourism accommodation sector. *Current Issues in Tourism*, 18(12), 1192-1217.
- Horn, K., & Merante, M. (2017). Is home sharing driving up rents? Evidence from Airbnb in Boston. *Journal of Housing Economics*, 38, 14-24.
- Kerrigan, D. & Wachsmuth, D. (2021) “Airbnb, le partage du logement et le droit au logement à Montréal”. *Nouvelles Pratiques Sociales* 31 (2): 382-404.
- Lee, D. (2016). How Airbnb short-term rentals exacerbate Los Angeles's affordable housing crisis: Analysis and policy recommendations. *Harvard Law & Policy Review*, 10, 229.
- Llaneza Hesse, C., Raya Vilchéz, J. M., & Rodón, T. (2023). The Resilience of the Medium-Term Rental and the Boom of Digital Nomads. Toni. The Resilience of the Medium-Term Rental and the Boom of Digital Nomads. SSRN.
- Mathews v. Algoma Timberlakes Corporation, No. C50387 (Court of Appeal for Ontario June 29, 2010). <https://canlii.ca/t/2bbc7>
- Mermet, A. C. (2017). Airbnb and tourism gentrification: critical insights from the exploratory analysis of the ‘Airbnb syndrome’ in Reykjavik. In M. Gravari-Barbas, & S. Guinand (Eds.), *Tourism and Gentrification in Contemporary Metropolises* (pp. 52-74). London: Routledge.
- Nash, C., Jarrahi, M. H., Sutherland, W., & Phillips, G. (2018). Digital nomads beyond the buzzword: Defining digital nomadic work and use of digital technologies. In *International conference on information* (pp. 207-217). Cham: Springer International Publishing.
- Nieuwland, S., & van Melik, R. (2018). Regulating Airbnb: how cities deal with perceived negative externalities of short-term rentals. *Current Issues in Tourism*, 1-15.
- NOT-00718-09 (Re), NOT-00718-09 (Landlord and Tenant Board February 18, 2009). <https://canlii.ca/t/28tfc>
- O'Brien, A., & Woodward, J. (2023, June 15). Ruling to evict family from long-term Airbnb stay props up “legal gray area” in Toronto’s housing market, critics say. Toronto.
- Oskam, J., & Boswijk, A. (2016). Airbnb: the future of networked hospitality businesses. *Journal of Tourism Futures*, 2(1), 22-42.
- Porter v Ning (Wong), LTB-L-014978-23 (Landlord and Tenant Board June 15, 2023).
- Premier Suites. (2022). *General Terms and Conditions*.
- Schäfer, P., & Braun, N. (2016). Misuse through short-term rentals on the Berlin housing market. *International Journal of Housing Markets and Analysis*, 9(2), 287-311.
- TEL-86057-17-IN (Re), TEL-86057-17-IN (Landlord and Tenant Board February 13, 2018). <https://canlii.ca/t/hs099>

- TET-56104-15 (Re), TET-56104-15 (Landlord and Tenant Board May 20, 2015). <https://canlii.ca/t/gjnx1>
- TET-72326-16-RV (Re), TET-72326-16-RV (Landlord and Tenant Board August 10, 2017). <https://canlii.ca/t/h5z7p>
- TET-81989-17 (Re), TET-81989-17 (Landlord and Tenant Board September 29, 2017). <https://canlii.ca/t/hmn1f>
- TET-87914-18-IN-AM (Re), TET-87914-18-IN-AM (Landlord and Tenant Board March 5, 2018). <https://canlii.ca/t/hw9qd>
- TET-90433-18-IN (Re), TET-90433-18-IN (Landlord and Tenant Board July 16, 2018). <https://canlii.ca/t/hwbg5>
- TST-64688-15 (Re), TST-64688-15 (Landlord and Tenant Board May 4, 2016). <https://canlii.ca/t/h50dt>
- Wachsmuth, D., & Weisler, A. (2018). Airbnb and the rent gap: Gentrification through the sharing economy. *Environment and Planning A: Economy and Space*, 50(6), 1147-1170.
- Wachsmuth, D., Bélanger De Blois, M., St-Hilaire, C., Goyette, K., Kerrigan, D., Nedyalkova, I., & Xiao, J. (2021a) De court terme à long terme? L'impact de la COVID-19 sur le marché de la location à court terme de Montréal. Research report commissioned by Projet Montréal. 54 pages.
- Wachsmuth, D., Bélanger De Blois, M., St-Hilaire, C. (2021b) Short-term Rentals in the City of Toronto: Market Overview and Regulatory Impact Analysis. Research report commissioned by the City of Toronto. 46 pages.
- Wachsmuth, D., Bélanger De Blois, M., St-Hilaire, C. (2021c) Short-term Rentals in the City of Vancouver: Regulatory Impact Analysis. Research report commissioned by the City of Vancouver. 37 pages.
- Walsh v Lee, SWT-55415-21 (Landlord and Tenant Board February 3, 2022). Website.