

Protecting Against Illegal Rentals in Miami Beach

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In a highly publicized dispute against home-rental giant Airbnb, Carlton Fields represented the city of Miami Beach in its efforts to protect the character and tranquility of the city's residential neighborhoods. Carlton Fields negotiated a resolution of the matter that secured Airbnb's full compliance with the city's short-term rental ordinance and payment of \$380,000 to the city. Drawn by its flawless beaches, famed nightlife, and fine dining, millions of visitors flock to Miami Beach each year. The internationally renowned tourist destination is one of the country's most popular resort cities for short-term rentals, an easy feat as it's nestled in one of Airbnb's largest markets. But when the city's efforts to prevent widespread illegal rentals came under fire, the city called upon Carlton Fields to restore the peace. Miami Beach has been implementing regulations on short-term rentals for years. The city prohibits rentals for less than six months and one day unless the property is in a legally permissible zone. But despite tough enforcement and hefty fines (starting at \$20,000 for the first violation), illegal rentals continue to mar the coastal city. After the city passed an ordinance regulating hosting platforms that advertise short-term rentals, Airbnb brought suit to invalidate the ordinance and enjoin the city from enforcing it. The ordinance required Airbnb and other similar platforms to take down user listings that don't display city registration numbers. Airbnb argued that these provisions unfairly treat Airbnb as the creator of third-party content and impose substantial burdens on Airbnb to monitor and police user listings. On behalf of the city of Miami Beach, Carlton Fields attorneys argued that Airbnb's active role in co-creating and co-developing content couldn't be characterized as merely passively displaying content that is created by third parties, as Airbnb claimed. This affirmative conduct, we argued, exposed Airbnb to regulations — and liability for failing to comply with those regulations — aimed at combating illegal transient rentals and protecting residents and consumers alike. After the city initially delayed the issuance of an injunction, and within eight months of filing suit, Airbnb agreed to settle the lawsuit. Under the terms of the settlement, Airbnb agreed to comply fully with the ordinance. Airbnb also agreed to pay the city \$380,000, which the city can use at its discretion. The relief obtained and the costs recovered were extraordinary considering the city was the defendant in the case. Airbnb is now working with

the city to support compliance and further contribute to a positive economic impact for the city and its residents.

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