



CERTAIN LEGAL ASPECTS OF AIRBNB IN THAILAND

BY

MISS ALISA PANDEY

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF  
THE REQUIREMENTS FOR THE DEGREE OF  
MASTER OF LAWS IN BUSINESS LAWS (ENGLISH PROGRAM)

FACULTY OF LAW

THAMMASAT UNIVERSITY

ACADEMIC YEAR 2018

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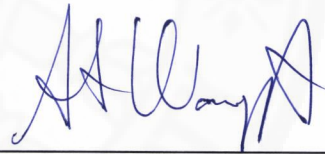
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CERTAIN LEGAL ASPECTS OF AIRBNB

was approved as partial fulfillment of the requirements for  
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Chairman



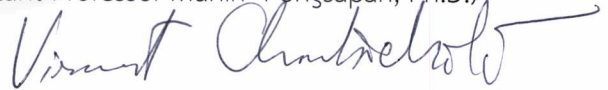
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## ABSTRACT

Airbnb is a concept of sharing economy that developed from the walk-in hotel accommodation to an online platform, where you can book your accommodation anywhere in the world by the link that given and by the people who have a living space for short-term accommodation.

In spite of having the advantage upon the business under Airbnb, the hotel act in Thailand cannot be applied to Airbnb accommodations as it is considered as an illegal business.

However, in most of the countries, Airbnb is legal and have strict rules for the tourists to rent out someone's house. Example, the guests or the tourist needs to pay taxes according to the city laws, or they can only rent for 30 days above. These factors have led to a number of increasing incomes for those who have empty living spaces for rent.

The matter of facts could be solved by considering to legalize or recognized Airbnb in Thailand by set the simple rules and regulations to protect our citizen and the government. Therefore, this thesis will explore the issues in the followings:

1. The study found that Airbnb is illegal in Thailand, which can cost a lot of losing towards the tourism of the country. Because Thailand is one of the tourist destinations.

2. The protection and the guest rights on Airbnb in Thailand are not protected unlike in Japan, the United States of America and the United Kingdom. It is because, in Thailand, we cannot protect the Airbnb owner or the guest under the hotel act or condominium act.

3. There're no specific laws regarding Airbnb which is not a hotel business but people make income out of that space illegally. However, there's tax law, immigration act, condominium act, town planning act and Civil Procedure which is under consideration of this thesis as a minor study to show that these laws also need to be amended.

As a result, there's only illegal accommodation under Airbnb and people are not protected in our country. Thailand should take an action by not only promoting the tourism of the country but also providing good accommodation for the guests of our country also by amend these minor laws and concentrate on the country's economy first.

**Keywords:** Airbnb, Hotel Act, Thailand, Illegal, Sharing Economy

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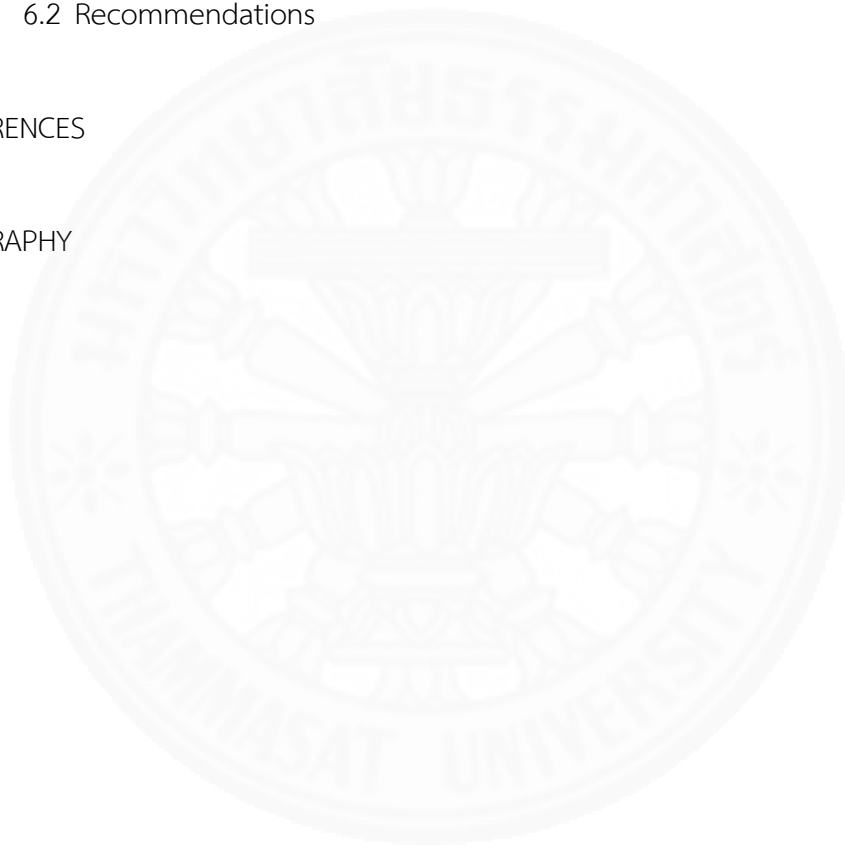
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## CHAPTER 1

### INTRODUCTION

#### 1.1 Background

Airbnb is an online platform to help the world grow and move forward in technology, where people can connect, can trust and learn to share with another human being. Everything is so easy and you can plan your trip accordingly.

Nowadays, there are a lot of people who are travelling all the time on a business trip or a family trip. Everyone needs a good and safe place to stay. Good place does not mean all the expensive hotels but also guesthouses and that is where Airbnb has started, in USA 2 friends who later open their apartment for rent by writing it on a blog online with the map and including breakfast, which at that moment was named as “airbedandbreakfast.com” with the fact that it started well, and they have spread these to the world and become “Airbnb” world famous start-up business where every tourist looking for in every country.

Airbnb is an easy and affordable place where you can book a place to stay and it all depends on you that in which particular area you want to stay and today, Airbnb has over 1,000,000 listings in 34,000 cities and 190<sup>1</sup> countries including Thailand. Now you may see Airbnb is growing extremely fast in our society and with little help of them we can grow our country economically.

Thailand is a tourism country where it is very popular amongst the tourists, where the culture begins, where we Thais called the land of smile, and we were voted as no. 1 tourism in the world from Master card Global Destinations Cities Index in 2016. When we are on the top and having a tagline of the best place for foreigners, we should not miss the chance. The first thing all the tourists are looking for in our country is a place to stay. As we Thais know that nowadays, Thailand invested a lot in hotels, residence, guesthouses and giving service to foreigners with excellent accommodation

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<sup>1</sup> The history of Airbnb, How Airbnb designs for trust. TED, February 2016.

but as we know these days the businesses are down because some internal political issues in which we are not involved but that makes our businesses down so there is a way get to back on track by promoting our country.

We all know the fact that in Thailand Airbnb business is still not approved by the government, or we can say it is still illegal to open any kind of place for rent privately as Airbnb. Phuket is one of the popular holiday destinations both internationally and domestically where people around the globe wish to come and enjoy their holidays. It is in Thai law that property owner who let the houses for rent less than 30 days is Not permitted as in Thai Law, the only place where you can stay is a hotel just because they have a license for the said business and which is qualified in Thailand according to the Hotel Act 2004.

So, the good thing about sharing economy is people nowadays have internet access in their hand, and they have houses and apartment which is available to make money from home without even see the person who is coming rent the house as a guest for a few days. The room is sitting empty and people should be allowed to make money for their own and from their own as well.

## **1.2 Objective of study**

1. To study the general principal of law (mainly Hotel act, Condominium Act, Immigration Act, Public Health Act)
2. To study the what is the difference in long term/short term rentals
3. To study the difference between other online accommodation platform vs Airbnb
4. To study how does Airbnb protect hosts from safety concerns
5. To compare and find pros and cons of our laws and regulations with oversea countries (United States of America and United Kingdom)

### 1.3 Issues

Even Airbnb is a legal contract where you made a contract with consent to another person (i.e. host of the house) to rent out their house for your own use and in return, you pay back the money but the contract is made orally not done in paperwork but the contract still enforceable within both the person.

Moreover, even in some countries where Airbnb is not legal but the contract which two people made it with consent and agree on the terms of the host, that's called enforceable contract.

Issues in Airbnb occurred just because in some country Airbnb is still illegal and that's where the problem starts. Here is the point out the 3 main types of Airbnb

1. The country where Airbnb is legal
2. The country where Airbnb is illegal
3. The country where Airbnb is in the middle

So, most of the issues came from the above-mentioned types of Airbnb in which Airbnb business is still struggling to get it right and to expand their business to the world.

Here are some problems which are from the local people who think Airbnb should not be legalized

1. Unsurprisingly the hotel's businesses are the biggest competitor of Airbnb because they hotel and Airbnb have the same idea but the hotel is more luxurious and you can just walk in and get the room

2. The landlord, example like parents with children have a right to know that the keys for entering their block are not being given to anyone over the internet. They also have the right not to have people use the flat next to them for a holiday party when they have to work and the kids have to go to school.

3. Or how about the right of a tenant not to be thrown out of their home because a landlord realizes he can make more money renting the place to tourists.

### **1.3.1 United states of America**

Airbnb in San Francisco, California has strict rental laws, as the owner of the property or the host, they have to register for both business registration certificate and a short term residential rental certificate from the city government. As in the Airbnb website, they have mentioned that the owner can rent out your place for up to 90 nights a year or unlimited days. However, if you're travelling to San Francisco, California, the traveler will need to pay for the tourist tax which is 14 per cent (i.e. equal to the city's hotel tax)

### **1.3.2 United Kingdom**

Starting from January 2017, London the big and main city of United Kingdom is now enforcing the law and regulations to restrict Airbnb business and mainly the host by taking not more than 90 nights of booking per the calendar year. It is already illegal in London to rent out houses in short term periods. However, the new rules are likely to hit those using them as a longer stopgap. Airbnb is very popular in London and due to the high demand people often use Airbnb to be their home but renting out for less than 90 days are already illegal and breach of contract in England.

## **1.4 Hypothesis**

Airbnb in Thailand should be recognized and regulated to facilitate the country's tourism and economy and ensure the safety of the people who involved in the Airbnb services.

## **1.5 Scope of the study**

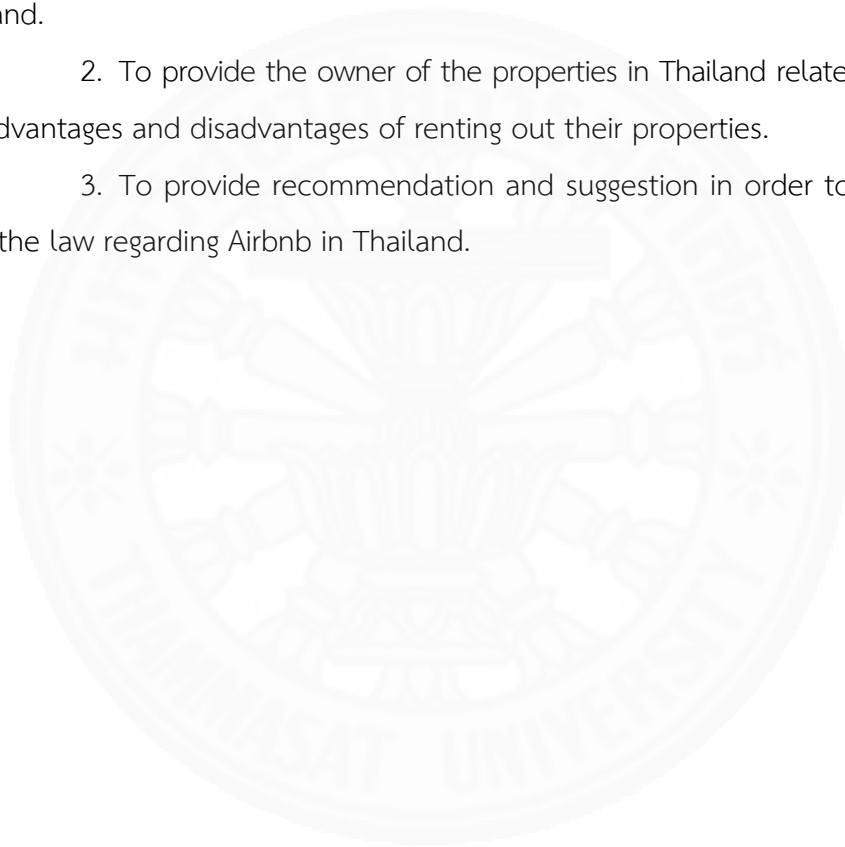
This study of thesis involves in the Law of Hotel Act in Thailand. By analyzing and criticizing legal principles, legal procedures in Thailand and compared with the foreign laws of the United States of America and the United Kingdom respectively.

According to the Hotel Act, there's plenty of complaints regarding the opening up a hotel business without a hotel license or the accommodation does not

come under the Hotel Act in Thailand. This study has focused on legal principles and legal effect related to Airbnb in Thailand which based on the Hotel Act.

### **1.6 Expected result of the study**

1. To provide information and legal analysis concerned with the Hotel Act and other related law amongst The United States of America, The United Kingdom and Thailand.
2. To provide the owner of the properties in Thailand related to the rights, the advantages and disadvantages of renting out their properties.
3. To provide recommendation and suggestion in order to promote and legal the law regarding Airbnb in Thailand.



## CHAPTER 2

### CHARACTERISTICS OF AIRBNB

#### 2.1 Introduction

In this chapter, the main concern would be telling about the characteristics of Airbnb, the concept of sharing economy, some problem concerning Airbnb in Thailand. Airbnb is an online Services As intermediary let people present their accommodation for the guests who are interested in staying can directly contact the host of that particular houses.

In the past few years. There are a lot of users or tourists from around the world uses this type of accommodation to find the best location with friendly room price available in Thailand.

However, Thailand does not have any specific law for Airbnb and it comes with a huge problem because people prefer Airbnb and when it is not legal then it cannot be safe and that's mean it does affect to our country's economy.

Also, Thai's government has just announced Airbnb as an illegal business in Thailand on May 13<sup>th</sup> 2018 according to Hotel Act B.E. 2547 in sections 4, 15 and 59.<sup>2</sup> The reason behind this announcement is that the owners of the neighborhood apartment are not satisfied and happy when the tourists from different places come and join in their neighborhood rooms. They feel insecure to live around them.

Most importantly, they're still the group of people who support the Airbnb business in Thailand because of the claim that, it is their right and freedom to let people come and live in their houses and that too they're making some income by

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<sup>2</sup> Parichart, B. and Than, D., "Review Article: The Review of Legal Issues Related to the Impacts of Online Vacation Rental Platforms (OVRPS) on Vacation Condominium Rentals and the Hotel Industry in Thailand," Journal of Architectural/ Planning Research and Studies, 15, 1, pp.1-16 (April 2018).

doing this small business. Some people just have too many houses, and they don't want it to be empty and want to make money into their own pocket.

## 2.2 Sharing economy

Sharing economy<sup>3</sup> is a concept of shared economic society. Which was first mentioned since 1978 in the academic article "Community Structure and Collaborative Consumption" by Marcus Felson and Joe Spaeth, both of whom are social scientists at the University of Illinois at Urbana-Champaign. To generate revenue that comes from the exchange of consumption of goods or services with the economic value from unused resources between individuals and groups through digital Tul various platforms.

### 2.2.1 The key factor of sharing economy

1. weak economic conditions after the global financial crisis in 2008, which is a period of high unemployment and
2. access to information on social networking and increased cloud that gives access to qualitative and quantitative information about factors that influence demand and better consumer behavior

The business can use technology and digital data to match between users and service providers. The service provider can allocate time to share that product or service. While consumers are able to choose and access such products or services without having to waste money to buy as owners, such as cars, homes, bicycles or home appliances, etc. Examples of popular businesses in a shared economy are growing. As leaps and bounds include Airbnb and Uber.

Airbnb is a business in the service industry that was established in 2008 and provides accommodation in many ways. From single rooms for 1 night, accommodation in the castle for 1 week or accommodation in villas for 1 month. Currently, there is a network of services covering 34,000 cities in 191 countries.

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<sup>3</sup> Arun Sundararajan, [The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism \(MIT Press\)](#), (Massachusetts: The MIT Press, 2016).

In addition, Uber business was founded in the same year. It is another business that affects the transportation and communications industry. Currently serving in 494 cities around the world, including in socialist countries like China. Recently, Didi Chuxing, a Chinese passenger car business, has merged with the acquisition of Uber business in China with a \$ 1 billion limit. From the above example, reflecting that sharing economy has become a popular trend around the world. With the success and influence of such businesses pointing to the changing modern consumption from changing attitudes in evaluating products and services, as well as worthiness in terms of time, which affects the economy and society in various areas from the purchase of that product and service

### 2.2.2 Advantages of sharing economy

The major advantages of this concept are:<sup>4</sup>

1. reduce costs instead of buying assets or renting assets from the lessor in the same way and
2. pushing for changes in consumer behavior in regard to value and better resource allocation. Especially in the case of having to decide to buy products that can be shared or high-priced products. By Ernst & Young's research in 2015, evaluating the value of products that can be shared, such as vehicles, drilling equipment, lawn mowers, accounting for 20 -30% of the total cost of the household. And from the Harvard Business Review survey found that most customers are willing to share resources if they can save at least 25% of that asset price. In particular, younger customers tend to change their consumption behavior more than other groups.

In addition, economic benefits in addition to saving money. It also encourages consumers to use their remaining income to invest in further expansion. and can also be used to consume other types of products, while the income is the same but better quality of life. More convenient and can manage to spend more effectively

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<sup>4</sup> Hannah Neuburger, "The ever-growing sharing economy: Pros and Cons," Accessed February 12, 2019, <https://www.eu-startups.com/2019/02/the-ever-growing-sharing-economy-pros-and-cons/>.

as well as being able to generate revenue for people with resources that are not regularly used by participating in such business models as well.

### **2.2.3 Disadvantages of sharing economy**

The first disadvantage of this concept is that it creates a temporary consumption culture. Which consumers will choose to buy products and services that focus on convenience and price rather than considering the relationship between consumers and business groups because most will use that product or service in addition, this concept also affects the standards and the labor market. Especially some types of work that service providers do not have experience in this field before and come to act as a supplementary career, in addition, there may be some groups of workers turning to earn income from the leasing of assets that are not more useful instead of routine work. Which will reduce motivation for developing specific work skills Which may cause problems of inconsistency in education to the labor market (labor market mismatch)

In addition, these changes also add to the challenges of traditional businesses, especially in mature markets. The Oxford Martin School research unit assessed the impact of sharing economies that accounted for 0.25% of GDP, although the proportion of the impact on the economy is still not very high. But can have a significant impact on some industries, for example, since the end of 2015, competition in the tourism and service industries has become fiercer when Airbnb businesses provide millions of rooms Which is more than a room at a hotel chain InterContinental and Hilton Worldwide, which are open for service at the same time Or Uber's business service and passenger car business, causing the number of new taxis in the UK to drop by 97% in the first 4 months of 2016

However, it is difficult to evaluate the cost of sharing the economic activity of sharing economy. The trend of changing the activity pattern from the same industry group into a shared economy system makes it difficult to calculate various indicators such as GDP and may not be able to reflect the real value of the economic activities of that country Correctly The results of a survey by a Boston Fed researcher in December 2013 showed that the proportion of expenses paid by service providers

to service providers like Uber and Airbnb is not included in GDP calculations. Non-formal work has increased or accounted for 4.4% of revenue from working in the system.

#### **2.2.4 Recent developments in rules and regulations worldwide**

With technology that is constantly changing and developing Together with the increasing number of stakeholders in the market Thus causing many Countries set rules and regulations in the past, the structure of laws and regulations was created under the idea of asset possession. Therefore, the laws and regulations currently in use are obsolete. It can be seen from the service providers of this type of business that often-set rules for themselves. Which differs from traditional business operations. However, governments in various countries have initiated a set of rules for sharing economy supervision. For example, in June 2016, the mayors from New York, Paris and other 9 cities in total agreed to formulate regulations and establish clear rules for rental applications. House and car hire

In addition, regulators also point out that some service providers may not follow the rules set. Or pay administrative expenses related to business operations to related agencies Which allows this group of service providers to have an advantage and be able to set the product price lower than other operators. For this reason, regulators from all over the world intend to solve problems in tax issues. For example, in 2015 The French government has forced Airbnb to start touring with Paris. Which is the largest market of the company and later expanded the scope of the same measures in 18 cities across the country From August 2016 onward, regulators from around the world will set the framework and rules for controlling the sharing economy more clearly. To correct imbalances in the economy but still considering the views of all players in the market Whether entrepreneur Independent contractors, government, business operators, etc.

#### **2.2.5 What has the Thai government done**

Applications call taxi services such as Grab and Uber to gain popularity quickly over time. Including increasing room service via Airbnb In September, there are approximately 8,900 rental properties in Bangkok, up from 4,600 at the end of 2015. In the first 7 months of 2016, half of these accommodations have an average occupancy rate of more than 60% per month. To the digital economy and the 4G society and the

development of technology for border less communication, sharing economy is likely to grow rapidly

However, while abroad, new rules have been set up to support sharing economies, but the current Thai government has not yet determined the use or modification of any laws. To support such changes but still use the same law to determine the market, such as in the past June The Department of Land Transport has stopped the services of Grab Bike<sup>5</sup> and UberMoto because the business services are against the rules of public transport. Which loopholes in such sharing economy policies will cause Thai businesses to lack efficiency in business operations from having to face problems and obstacles from the regulations of the old legal framework. However, various associations in Thailand do not ignore such issues. With efforts to innovate to solve problems such as the Motorcyclist Association of Thailand has launched the Go Bike application which developed in Thailand. In order to resolve legal issues that affect the application of calling a taxi service in the same way, such as Grab and Uber. EIC, therefore, sees that the sharing economy trend is clear and will play an increasingly important role in the Thai economy in the future. Therefore, the development of relevant laws to be comprehensive and consistent is, therefore, necessary to develop in the next phase

Also, sharing economy is like taking the room to divide and remove the space to make an office and co-working space is a sharing economy model that seems to be the most successful and now. But of course, it doesn't stop the stream of sharing. Because now there is a sharing of accommodation between people working in a foreign country This kind of sharing has been especially artistic in Brooklyn, with street art and artworks scattered around every corner of the street. Began sharing rooms in artists' houses for artists together Which became more and more popular Because in addition to meeting someone who has already talked to the club Still have professional equipment and conversations that share knowledge as well

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<sup>5</sup> Chakkawan Salaytoo, "Motorcycle taxi drivers in Grab Protest," Accessed May, 20, 2018, [https://www.nationthailand.com/breakingnews/30345664?no\\_redirect=true](https://www.nationthailand.com/breakingnews/30345664?no_redirect=true)

The popularity of sharing rooms like this is becoming more popular among production workers in Thailand. Having a ground floor as a studio above people working Free day to take pictures free night to sit and talk lifestyle that doesn't stop thinking all the time causing new ideas to create works

Another interesting thing of sharing that is not so much to talk about is that Sharing the kitchen. Think about it. Thai people want to open a restaurant and want to cook. Another factor is the availability of equipment for cooking. Imagine having a shared kitchen in one of the big rooms. Use the device together and deliver food to shops in nearby neighborhoods that are not more than 2 kilometers. This would be interesting, not less If someone initiated the idea of sharing the Thai way of being up-to-date, we will definitely see the charm of playing a new shared style based on the concept of sharing Thailand 4.0.

#### **2.2.6 Example concept of Airbnb in Japan (Minpaku)**

The easy example of the illegal Airbnb country apart from Thailand is Japan<sup>6</sup>, it is because Japan is the targeted country for tourist as one of the most top listed countries to visit because of the visa policy so the number of tourists is flowing into the country and the Airbnb business in the country is growing rapidly. Japan is one of the first country in Asia that law to support Airbnb business. The Minpaku Home Sharing Law which has been enforced since June 15, 2018, last year. And the said law has the following important content.

1. First, the owner is limited to give out their houses for 180 days per year, which originally had no limit on the number of days open for renters. Such restrictions directly affect the income of the owner. However, on the other hand, is considered support for hotel business operators as well as helping to protect the quality of life of people in the community from short-term problems such as traffic problems, noise pollutions and disturbing neighbors.

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<sup>6</sup> Nikkei Shinbun, "Airbnb-style rentals will be legal in Japan," Accessed May 31, 2018, <https://resources.realestate.co.jp/news/airbnb-style-rentals-will-be-legal-in-japan-as-of-june-15th-heres-what-you-need-to-know/>.

2. Secondly, guests must rent a room at least 7 days at a time, which can be seen that the purpose of the law is to protect the hotel business operator. Because if Airbnb is allowed to rent one-night accommodation, it will create unfair competition for the hotel business. And usually, Airbnb's accommodation prices are usually cheaper per night than hotels in the same area. However, in fact, renting the same accommodation for 7 days is not consistent with the practice of tourists who often do not live in one city for 7 days.

3. Third, the owner must register with the local authorities. In order to check the standard of accommodation, such as the alarm system, the size of the room, etc. In addition, the owner must submit a report about the stay to the local authorities, such as the number and nationality of the guest every two months

In summary, it can be seen that The Minpaku home sharing law has the intention to control Airbnb business as a legitimate business. By creating rules and restrictions, including tax payment systems and at the same time promoting investment in the hotel business which is in line with the economic growth of Japan that is increasingly dependent on tourism. Can only help the community reduce problems from short-stay travelers.

In Thailand, the Airbnb business has the same high growth as other countries. However, there is currently no specific law enforcement to support the rental of such rooms. As for the laws that are being enforced, such as the Hotel Act 2004, are not yet covered by the Airbnb business due to the Ministerial Regulations issued in accordance with the said 2008 edition of the Act, except for temporary property rental operators that do not require Hotel business license If the property has a total of 4 rooms or less, which means that if the lessor has 4 rooms or less, then the property will not be under the control of such law. Usually, Airbnb tenants are only 1-2 rooms for rent. As a result, the Airbnb business is seen as a business that is not under the control of the law. In addition, the Airbnb business is still contrary to the Condominium Act BE 2522, which prohibits the use of the wrong type of buildings, such as the wrong use of the buildings and to do business in the living space, etc.

For this reason, Thailand should consider the need to enact laws to support the Airbnb business, taking into consideration of various factors such as the

balance between supporting hotel operators and using online platforms to promote the tourism industry of Thailand. As well as considering the safety of people in the community as well. And the main problem focusing as followings;

1. Just recently, the court ruled that the owner of the room in the condo that brought the room out for temporary rental is considered to be wrong.

2. In 2017, there are 1,200,000 tourists who use Airbnb to rent accommodation in Thailand, but this app is similar to many new applications and there is no specific law to take care of.

3. Although the Airbnb exist in the form of condos or other building styles which has not be seen clearly. But there are more attempts to work with the government focusing on tourism in the secondary city

In 2017, there are 1,200,000 tourists who use Airbnb to rent accommodation in Thailand. The numbers are quite likely to make our tourism bustling but this application is similar to many applications that came to launch in Thailand before, like UBER and GRAB that do not have laws to take care of only causing the business operation to be illegal.

To temporarily rent a room, there may be many laws involved. Which is mainly intended to set safety standards, such as setting standards for the fire escape, or how to prevent fire problems or about insurance, etc. but on the other side, some rules have become a wall that makes small entrepreneurs like general condo owners. and small entrepreneurs like owners of various guesthouses Can operate easily.

### **2.3 Characteristic of Airbnb**

Characteristic means something which is unique, particularities or anything that have their own characteristic which make it different and people can picture or recognize that particular piece or service or brand in that particular way. Just like service of Airbnb, people mostly remember because it is unique and the service or website is the difference from any other hotels because if everything is the same Have the same technology Both the ability to process data Screen size or whatever but Therefore,

the design will be a factor that makes you different from others. and when everything is produced the same way, consumers tend to choose things that are easy to use. Which good design work is always like that.

In 2008, Airbnb made a new history in the business world by doing strangers' home rental business through apps and websites. It also pioneered the sharing of the economy.

Cut the image back to the present. No one will doubt that disruption flows create impulses throughout the world. Consumer behavior using apps Renting a house of people who had never known each other on the other side of the world turned out to be a normal thing to create business and income for the common people today.

While the popularity of other unicorn start-up services Began to slow down over the past few years. Airbnb has sprung up to be the second highest value startup in the world with the US \$ 30 billion And expand the business from the house rental platform to a community that creates a new travel experience More amazing, Airbnb made the first profit in the second quarter of 2016 and is expected to make a profit of US \$ 3.5 billion by 2020 (before taxes, interest and depreciation) according to the website's report.

Which way is it undeniable that Airbnb's business model is worth studying? Joe Gebbia, co-founder and chief product officer, Airbnb told us, "Design is something that should be basic. Business importance from the first day.

So why people tend to use Airbnb more than hotel full services<sup>7</sup> these days and why Airbnb is more interesting. Because the owner of Airbnb wants to use the internet platform as a place to bring people online to meet homeowners in the offline world. Share experiences together or exchange experiences while exploring the city. Live like a local or taste the authentic local food in a cheaper way just to make it a community where people from around the world connect to each other through an online platform and explore cities where they have never experience before.

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<sup>7</sup> Ted Rogers, "Why tourists choose Airbnb over hotels," Accessed May 30, 2019, <https://www.ryerson.ca/news-events/news/2016/10/why-tourists-choose-airbnb-over-hotels/>

When we asked a random person, who have been using Airbnb whenever they travel and the fact is that very simple that because it is convenient and free. We just need to book online and then we can collect the keys and stay. No one is disturbed. There is no need to meet the official receptionist or the official welcome by the hotel just nothing formal. People tend to go on a vacation or business trip to relax and carefree because other things are waiting for them to explore or to concern about and having to do a check-in in a hotel with a formal receptionist is not something people are looking forward.

So, that is why some of the hotel these days try to change the concept of the hotel by creating it as an online platform like Airbnb. Starting from allowing renters to rent their rooms online after that, when entering the hotel There will be no hotel staff to welcome like in the general, but there will be a self-service table to pick up the keys to enter the room with a key card. Also, this hotel also creates space for all 300 guests to meet, socialize or do activities together during day and night. The central area of the hotel has 5 bars, divided into 2 bars located on the 2nd floor. The rooftop bar overlooks the 360-degree Manhattan view. The remaining 1 is spread on the 1st floor and Another place is connected to the central kitchen. In addition, the basement has a supermarket called "world food". However, this kind of hotel is trying to compete with Airbnb business because they can see that online platform is what people prefer these days and Airbnb have that concept which is way cheaper than the hotel.

Airbnb is using the online system to be useful Including the no staff in hotels that look too formal and also using an automated system to make customers feel more comfortable as for the strength of the hotel, it is not possible for Airbnb to place a hotel system that allows people to meet in the central area of the hotel. Whether it's a bar or an area to do other activities such as organizing a concert, Of course, these things Airbnb can't. but the price will not be the same as Airbnb because one of the main and major reasons why people use Airbnb is Cheap with freedom of choice.

### 2.3.1 Impact from AI (Artificial Intelligence)

Also, the AI (Artificial Intelligence)<sup>8</sup> is another factor because, for many years, jobs, labor job secretary, accounting, banking and information system management Looks to be the riskiest profession because artificial intelligence, also known as AI, has come to play a role in helping the energy. Which saves time and now the craftsmen, artisans, fine works, including work that requires elaborate like chefs, kitchens or even media work, writing articles, editing videos, writing news, writing reports Would be at risk of being replaced by artificial intelligence as well because artificial intelligence can recognize information, learn and develop more rapidly than the human brain which is a concern. Which is connected like an online platform where Airbnb is trying to reach to make it easier and people can come and book the house like that. The main purpose of Airbnb is that the website or the Airbnb platform can be used easily and anyone can access and book it online without needing anyone's help.

One easy example of AI is the competition of mobile phones that improve the resolution of professional cameras every day until the camera sales company had to stress because this artificial intelligence make people more comfortable Then why do you have to carry a heavy pro camera out of the house when the mobile phone is lightly in your hand and you can take pictures out to look good? The sharpness of the image is equivalent to a big camera and it is also very handy.

Another characteristic of Airbnb apart of being located at convenient location i.e. nearby subway, local trains, shopping mall, restaurants or in the city is that the Airbnb house is cheap or you can get it at a low-cost price if compare to the hotel in that particular location or place where you wanted to rent also, you will get a very homely feel because you will have everything in that house where you can do your own laundry or the dishes. And the plus point is that you will get a large amount of space with you and you don't need to squeeze in like in the hotel room. All the household amenities are there for you, no need to bring it from your home if love to

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<sup>8</sup> Airbnb Newsroom, "How AI and Humans can build trust, values and economic opportunity," Accessed, May 30, 2019, <https://press.airbnb.com/airbnb-holds-expert-discussion-on-how-ai-humans-can-build-trust-values-and-economic-opportunity/>.

eat home-cooked food even when you're out and it is actually can save your cost and budget and you can enjoy in the exploring the city instead.

However, people would prefer Airbnb just because they want to explore the city and live like a local get the local authentic experience like a non-touristy neighborhood. It is also what the guests were looking for like it should not restrict to the accommodation itself but also, they are trying to connect with the neighborhood local as well. Because it is exciting to get the non-standardization exciting experience and so you get to do something new which you will not find it in your hometown or place where you live. Talk to people, sharing the unpredictable experience, that is what people will look forward when they choose to stay in Airbnb houses.

### 2.3.2 Tourism in Thailand

Another big characteristic of Airbnb is that the Tourism of the country which will affect the government directly.<sup>9</sup>

The Thai government sees the importance of the tourism industry because it is a large sector that has driven the Thai economy and is also a tool to promote strength and stability in occupations Encouraging many sectors of the Thai people to have income and the circulation of money in the economy

The Thai Government has cooperated with the Ministry of Public Health and other related agencies to jointly raise the standard of living of local people. Both in the dimension of developing and improving houses to be clean, safe, have good food to eat and upgrading villagers to be entrepreneurs that can support tourists

In addition, The Thai government has also considered Airbnb as a way to promote good local and rural things to tourists through the presentation of photos and stories in each location. About the arts, culture and well-being, so that tourists can get to know what each community has because there was a lot of interest in exchanging culture which Thailand has, such as activities for tourists to try to make local food or local places to visit.

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<sup>9</sup> Suchat Sritama, "Thai Airbnb hosts serve 1.2 million," Accessed May 30, 2019, <https://www.bangkokpost.com/business/1413510/thai-airbnb-hosts-serve-1-2m>

However, the law for legalizing Airbnb has not been passed yet so in that case, a house for Airbnb purpose can only let the guest i.e. tourists stay not more than 4 guestrooms and not more than 20 people staying. Therefore, the local can be able to open the service as accommodation and there is no obligation to follow to the hotel law but the owner of the house must register with the local administrative organization that they provide non-hotel accommodation to serve tourists as well. In order that the government can check that the house is safe and secure, suitable for tourists.

Thai Government claim that Thailand has 43,223 locations in Airbnb platform, located in Bangkok 10,566, with Phuket, Koh Samui and Chiang Mai. The number of accommodations increases by an average of almost 100%. In 2016, there were 774,000 travelers using Airbnb service in Thailand and Thai people using Airbnb for their stay in foreign countries more than 300,000 people, however, this type of room or Airbnb service still has no legal support<sup>10</sup> in Thailand and 2 illegal laws, namely the Building Control Act and the Hotel Act.

Also, Tourist would prefer coming to the country where they can book the Airbnb accommodation just because they wanted to feel like the local and live like a local. When the law is not yet legalized in the country where tourism is very popular and it is one of the tourist destinations, the income of the country will also slow down and people would prefer to stay in another country with the budget they have and avoid the place where there's no Airbnb option in that country.

In the meanwhile, in the past 4-5 years, in addition to exports, Tourism is an important economic driver. In some years, tourism growth is half the rate of economic growth of Thailand. Based on the information from the Ministry of Tourism and Sports, Areas that benefit from tourism especially the income from foreign tourists concentrated in a few provinces such as Bangkok, Phuket, Chonburi, Chiang Mai, Surat Thani and Krabi.

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<sup>10</sup> Phorn Patimon and Christian Moser, "Legal aspects on renting out a condominium unit on Airbnb in Thailand," Accessed May 30, 2019, <https://juslaws.com/news-legal-articles-thailand/legal-aspects-on-renting-out-a-condominium-unit-on-airbnb-in-thailand.php>

Other provinces have very little benefit from tourism so it would be benefit from every person in the country to support the local and let the tourist knows about the small/little tourist spot in each province not only the big cities in Thailand.

What should we do to benefit from these tourism revenues? Resulting in more people in the country If income is still concentrated in large cities. The difference in urban development will be far away. And most people in the country may not be benefited from the increase of tourists as they should.

Imagine that when Thai people go to Japan Also went to search for tourist attractions in small alleys in strange cities, both of which are unlikely to be able to go together. Tourism promotion of the same nature is likely to occur in Thailand.

Or should go further, such as if tourists come into the full potential of the area Should we collect additional taxes from tourism to bring money to develop infrastructure or distribute income.

### **2.3.3 New features of Airbnb**

In March 2018<sup>11</sup> Airbnb has released new features for guests with the handicap or disabilities to find accommodation to travel worldwide easily through Airbnb. This function is to help people who want to see the world but unfortunately because of the accommodation does not have the room for wheelchair people which means they cannot travel individually if they want. However, Airbnb has announced that the guests now can filter their needs and search for the accommodation which will to needful for them such as a wide doorway, step-free access and disabled parking spot with the approval of the local authority.

In December 2018<sup>12</sup> Airbnb introduces new measures to keep people safe by partnering with the American Red Cross and Airbnb has also given away 30,000

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<sup>11</sup> Airbnb Newsroom, “Airbnb Highlights New Accessibility Filters and Features for Guests with Disabilities Worldwide,” Accessed May 30, 2019, <https://press.airbnb.com/airbnb-highlights-new-accessibility-filters-and-features-for-guests-with-disabilities-worldwide/>

<sup>12</sup> Airbnb Newsroom, “Airbnb Introduces New Global Measures to Help Keep People Safe,” Accessed May 30, 2019, <https://press.airbnb.com/new-safety-measures-2018/>

carbon monoxide and smoke alarms to the hosts around the world. It is because there're people around the world die from fire and carbon monoxide-related accident at the hotels or homes, in these cases, we can avoid by giving awareness and educate the hosts in a proper way and teach them how to install the alarm for their own good and people's safety. Therefore, Airbnb has also asked the hosts to confirm if they have carbon monoxide and smoke alarms before listing their property to make sure that the property is safe enough. If the hosts do not have the alarms, Airbnb will put the red flag to this property for the guest awareness so they can be aware and take precaution steps.

In May 2019<sup>13</sup> Airbnb has launched another helpful feature which is the donations feature to help people in the time of need. Now you can distribute any amount of money in need of temporary housing and it is going to non-profit organizations so now people can help out to the communities where needed as well. This new feature will allow hosts to donate their Airbnb earnings to help people. However, many hosts are eagerly waiting to help but not always able to open their homes to help which is understandable. So, Airbnb has developed this tool to make the act of giving easily accessible, easy and straightforward and direct to the communities. Meanwhile, this feature is now only available in the United States of America, where the hosts can you use their percentage to help people.

#### **2.3.4 Difference between booking.com, Agoda and Airbnb?**

Basically, Airbnb is more like a short rental based, whereas booking.com and Agoda are mostly used by hotels. There is some difference between Airbnb and booking.com<sup>14</sup>, Agoda. One of the best examples is the guest's expectations. It is because Airbnb is more like stay at home accommodation, so they are aware that they are going

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<sup>13</sup> Airbnb Newsroom, "Airbnb Launches Donations Feature to Support Communities in Times of Need", Accessed May 30, 2019, <https://press.airbnb.com/a-irbnb-launches-donations-feature-to-support-communities-in-times-of-need/>.

<sup>14</sup> Michael Rozenblit, "Airbnb vs Booking.Com for Guests & Hosts: The Pros and Cons," Accessed May 30, 2019, <https://www.theworldwasherefirst.com/airbnb-vs-booking-com/>.

to stay in someone's house, their expectation will be accordingly. While booking.com and Agoda are hotels which can be a high expectation from the guests. A place at the hotel standards 24 hours check-in etc.

Also, Airbnb must have a host who owns or take care of the property or accommodation, in some country, the host needs to stay with the guests at the property too. However, Agoda and booking.com do not need to have the host at all.

While Airbnb has two-way reviews where the hosts can leave reviews for the guests too. Even though this feature is very useful for keeping the guests responsible for their actions, Booking.com does not have this feature. So, these are the reasons why Airbnb, booking.com and Airbnb are the difference. However, the purpose of my study in this thesis will not apply to booking.com and Agoda since their main purpose of business is with the hotel, not a house accommodation.

Therefore, the measure of my thesis purpose will not apply to booking.com and Agoda, because of the said reasons.

### **2.3.5 Types of contracts related Airbnb**

Airbnb has number of legal relationships involved. However, the main focus is the contract between the host and the guest. It is because when a person uses Airbnb, there's already a contract made between them no matter if he or she is the guest or the host.

So, for those unfamiliar with Airbnb, it is an online service platform where they connect Hosts who have the house to rent with Guests seeking to rent. It provides an alternative to booking a room or a house when traveling. Hosts are often individuals and the accommodations can be from a house to a room in a house or apartment or mansion.

Airbnb is not an owner or operator of properties. In order to access certain features of the Airbnb website and its tools, and to book an accommodation or create a rental listing, you must register to create an account and become a member. And, in order to do that you must agree to its Terms of Service. This is the contract you are signing with Airbnb.

Once you register as a member of the Airbnb website and you have chosen your accommodation then you must sign a separate contract with the host

(if any). At that time, you will be paying for the use of service of Airbnb because Airbnb has provided you with the service of room or house hunting for the short period of time. So, the rent you pay for the accommodation is in addition to the Airbnb fees. However, the rental money will be paid to Airbnb once the guest has chosen the accommodation and that money will be transferred to the owner or the host from Airbnb only after the guest has checked-out of the accommodation.

And yes, hosts can ask guests to sign a contract because some hosts required guests to sign a contracts or rental agreements prior to check-in, however, the hosts must disclose the actual contract terms prior the booking and include the contract terms when messaging the guests <sup>15</sup>.

## 2.4 Some Problems Concerning Airbnb

So, Airbnb is the platform where people just rent out someone's house in the country or place where the guest are visiting such as United Kingdom, India, and Japan, which is quite normal for people who want to change the environment from a hotel to a house, where you feel more like home and nothing is too formal there.

Also, the Airbnb houses are very handy, you get everything you want from kitchen utensil to a household equipment's and also the place is quite in the center of that particular city such as sky train, subway, malls, and any other tourist spot. Which is very convenient and easy for you to travel and is not dangerous for a solo traveler as well. Airbnb is perfect for all the people regardless the age and it is very pocket-friendly as well, good for a family who does not want to separate the room and want to stay by their side. Also, you can book the room via online very easily and sometimes you don't even need to meet the house owner as they will keep the keycard or the room access somewhere safe for you and the place is very unique because you will not find any place just like that Airbnb house in any country or places you visit. You will get both social benefit and financial benefit also the personal benefit because

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<sup>15</sup> Airbnb, "Terms Of Service," Accessed May 30, 2019, <https://www.airbnb.co.in/terms>.

you don't need to stress out after going back from your vacation and think that how much you need to pay for the credit card bills from this vacation and how much you need to save and cut my own salary into savings, it is more like you can stay for longer period of time instead of only 5-6 days at a fancy hotels. Also, you will be mentally stable and you will learn new way of and learn something new from that place. Such as small greetings note from the owner of the house.

And if you're a host of that house, it will be more fun because you will get to be friends with the people across the globe, you will learn new culture, language and many more amazing things from your guests, more like a family and sometimes you get a chance to have a meal together with your guests, suggest them the local places, explore the city and being comfortable with one another. The host will have benefit either ways. Because they will get extra income and also, they can rent out the empty house for people who are looking for it and the plus point will be they can be friends with the guests and share experiences with them as well.

Also, Airbnb is good regarding the flexibility, some hotels are very strict about the check-in and check-out policy, but here in Airbnb houses you can check-in according to your wishes and choose your time slot according to your flight or itinerary of the day. You can negotiate in Airbnb houses about your in and out policy and also the cancellation. You also get more space in less money, you can rent out the entire place for your own privacy or you can just rent out a room and share with other guest or the owner as well, the choice is yours. If you are travelling with your family or friends, you can just book the entire place, however, in the hotel, you're more than two persons, you need to pay and book for the separate room which can be very pricey and out of budget. In Airbnb you can have an entire place with a separate room and what so ever the privacy.

In the hotel, they would want you to eat at their restaurant which is good for some people but in Airbnb, they would want you to cook by yourself or eat like a local, you can also stock some food via the nearby supermarket or farmer market and cook a meal or two while you're staying, mostly some host would leave spices or basic fresh herbs for the guest to use in cooking. This can save and cut a lot of cost for people who have a budget problem and for those who are vegetarian and prefer to eat home-

cooked food only. Because sometimes people are allergic to something which we or the restaurant does not know and that can cause harm of the guest and no one would want to go the hospital on their vacation or a business trip. So instead of eating out, the guest can just cook a meal for themselves and enjoy the city like a local.

Regarding the location of Airbnb, if a hotel room in center of London cost you 150 bucks per night but at the same place in a walking distance, you would find something cheaper like 150 bucks for 4 nights and that is possible also the location is just the same or you might need to walk for a bit or so which is still very convenient and easy to travel. There's no reason for the guest to pay extra money for spending a night at the same location.

However, they're not always a good side for Airbnb, in this topic, it is about the problem concerning Airbnb in various ways, which could have happened or had happened before. Also, these kinds of problems will not ruin your trip and there're very common and basic issues. Let's start one by one as a bullet point here.

#### **2.4.1 Minor Problems**

1. First of all, the place might not be what you have expected to be

This can happen a lot because everything looks good in the picture and not in the real life, maybe the owner forgot to mention something like he owns a cat or dog or any other pets which you might be allergic of. Or you are there with your family on a lovely vacation but the place is turned out to be located nearby the red-light district which is not a good environment for the kids or the worst case scenario would be the neighbor house from upstairs that make loud noise in the night while everyone is asleep and that disturb your vacation which you genuinely feels like the owner should have told you or mentioned it in the site so you can reconsider the option and look for a new place. If something like that happens, you might go up to your owner and talk to him straightforwardly that you're allergic to something or the place is not what you were expecting from the picture that owner put it on the site and ask for the refund if it is unbearable and you cannot stand or stay in that Airbnb house anymore. Also, you can contact the company or the support team of Airbnb with the photos or evidence provided by you to confirm your problem and ask them for refund within

24 hours after you have checked in the room so you might get a refund or Airbnb will book another house for you which is comparable like the one you have booked before.

#### 2. Something is not working in the Airbnb place

Like if the WIFI or the dishwasher was not working and the owner have not checked it before giving out the room for you. In this situation you can contact the owner to solve the problem initially and if the owner could not fix or failed to solve the problem within 24 hours period of time then you can ask Airbnb company to step in and take the action immediately and you might take a picture and send it to them for the prove. Then if the company also failed to solve the said problem, then you might need to write down a review after your stay, which will not solve your problem directly but you can warn other guests who is looking for the same room to take the precaution so the same won't happen to future guests and avoid the same situation.

#### 3. You happen to don't like another guest or the owner itself.

This will not happen if you book the entire place for yourself or family because you will never see the other guest but if you booked or stayed in the spare room of someone's else then this might happen to you as well. Like you will have to use the same toilet and other guest or the host did not put up the toilet seat or throw the toilet paper in the dustbin. These problems can be avoided by some people but not everyone also, you can avoid these kinds of the situation by reading the reviews of the place and of the previous guests and the rating of the said place which might help you to decide if you are ok with that place or not. Or maybe you can ask or reach out to the owner and see if he responds on time or the friendly tone of that owner. However, you cannot judge a person by 2 or 3 messages but at least you can watch out if it is a good signal or a bad signal for you. If something happens, you can always reach out to the Airbnb company and look for help if you needed one and look for an option around if it is unbearable to stay with that owner or another guest.

#### 4. When you're not sure if the place is legal

Airbnb is a very popular place for rental for everyone across the globe, there's Airbnb in every location of the world, however, Airbnb is not legal in many cities or countries. All you need to do is check in the website of Airbnb to make

sure that you're protected under the law. Some cities do not allow to rent an entire place or rent the place for a short term period because if something happens you can always be protected under the law, unlike Thailand, we also have a lot of Airbnb place but all of them are illegal but there's a huge amount of tourist who still booked the place but if something happens, they won't be able to put a lawsuit against the owner of the house. So, the guest needs to check for their own safety and read the review carefully before booking any room in other cities or countries for their own good.

5. The owner cancelled the guest reservation on the last minute or the owner write you a bad review.

According to Airbnb site, if the owner cancels your reservation on the last minute, then the company will get you a full refund or ask you to book another place from the same amount of money you have paid before. Airbnb will help you during the process of the cancellation and you can easily request for a refund as well because it can make a lot of changes when you don't have the same place to stay and other places might not answer your need or nearby the place you wanted to stay like the previous one. However, you will get a refund and can book another place.

Also, as you know Airbnb is a place where both groups of people can write a review for each other and if the owner write you a bad review, and the same situation does not happen the same way as the owner describe then you can write your side of the story and let everyone know as well. Because the post will be posted publicly and everyone can read both your review and the owner's review as well. Also, note that you can write back the bad review from the owner within 30 days after only so this might be the tricky point where you could miss out while you're travelling as well.

6. The guest lost their keys

This is a very common issue where people sometimes forget their keys or lock themselves inside the room and there are no extra keys around unless you have to call the owner, however, if you lost the keys at midnight and call the owner then you're in a trouble because you know disturb someone's else might cause a problem. However, the owner always has a spare key somewhere hidden, you just need to ask and them. As well as you need to make the new keys for the owner for the security purposes for the next guest.

However, we would recommend that each Airbnb is not the same regardless of the location, country and the policies of each place, we would like you to read the terms and conditions very carefully before booking the room and check the picture and if possible talk to the owner of the place to make it clear for your end before paying for that room.

#### **2.4.2 Conclusion**

Airbnb is quite a popular and fast-growing economic start-up in the world. It helps that particular country in growing tourism and makes a lot more income to the country. However, some countries including Thailand does not legalize the law for Airbnb yet. Airbnb has improved the quality of lives for people so people can travel and see the world and make some extra money as mentioned in the sharing economy topic, the internet has a lot of impact for the people in every age and people do prefer to do everything online without any formality involve. Also, the concept is to advertise the small local area of the particular countries where you can feel like home. Instead of living like a tourist. Also, Airbnb is very unique and unlike any other hotels, it comes with the traditional accommodation and has an incredibly affordable price range as well. Also, there will be more feature in the upcoming future for the guest to travel easily and can access local places easily. Such as the local tour program by the host or Airbnb pool where you can meet other Airbnb guest and explore the city together as a city tour itself and you will not feel left out when you're in another country apart from your home.

Also, everything is accessible, you would find anything regarding your stay online because Airbnb is an online platform where you would find anything from your stay to local area, food or nearby tourist spot for your consideration. However, it is also depending on the liking, some people like our parents' generation would always choose the hotel because of the formality, whereas the youngster would always choose anything accessible and easy to book online and the reviews are enough for them to decide if they want to stay here or not.

In Airbnb, you can always choose the location of your choice, such as you want to stay away from the crowd or getaway in the countryside or stay in the major city place where you can just walk to the subway or restaurants or the mall easily.

Everything is up to you. You can always find something which suits you the best on Airbnb and you can always customize the range of the place, size of the room as well. Also, you can always write down the reviews of your stay either if it is a good one or a bad one and let other people know for the future as well.

However, as we know, Thailand is still against the Airbnb concept and the law which is not supporting the said startup is 'Hotel Act BE 2478 of Thailand', we still need to work on the said law and make it legal as soon as possible for our country's economy and for our people. As our country is one of the world tops visited destination and people prefer coming here for their vocation, we or our people can make money out of them and we can also legalize the law for the safety of the tourist as well. The government will also benefit from this concept. We just need to pass the bill and everything will fall into places. Most importantly, our country will grow economically and financially as well which is very good for both people and the government.

Apart from the above minor issues, there are some major issues regarding the Airbnb, which should be discussed and give some example of the cases that have been happened before to the owner or the guests and it is a major issue.

As everyone knows Airbnb is the place of income for anyone or any person who is ready to rent out their homes and there's a lot of people out there who do this job for living or just for an extra income in their pockets.

### **2.4.3 Major Problems of Airbnb**

#### **2.4.3.1 Safety of life**

We all have to admit that safety is the most basic and important thing for all of us regardless of the places. Some places even in the hotel are not safe, however, the topic is going to be about Airbnb only. There're some cases which need to be fixed as well. Mostly whenever people book the room or the places thru Airbnb, they're not very much concern about the safety. Such as the smoke detector machine or the first aid kits, basically, anything which could be or can be used when there's an emergency. Which is different from the hotel because hotels will have the standards and safety equipment because it is the priority of any hotels before you can actually operate and let the customer stay unlike Airbnb you just need to book it and pay for

the place and the place is yours which is potentially put the guests in the event of an emergency and the guests don't even realize it.

Also, there are no such ways we can verify all the houses of Airbnb that the safety equipment works properly or if they have first aid kits or a carbon monoxide detector machine for the guests. However, there's might be some places such as apartment, condominium or service apartment which may have built-in safety equipment for people who is staying in that particular place. Even on the website of Airbnb, there have a concern about the safety and ask the owner to verify that the place is safe and have basics safety for the guests.

On the other hand, some specific area, Airbnb owner needs to submit the drawing of the house and the exact place where the smoke detector has been installed and the owner needs to get the permit for letting the house or place on rent as well. This can be very useful because the standard of Airbnb will be better. However, the guest should always keep in mind that Airbnb does not have the same safety, law and regulations as hotels and might come only under the local law of that area or some places like Thailand, Airbnb is not even legal and there are no laws to support Airbnb as well.

Case example on the safety matter in Airbnb house: Canadian tourists die from lack of carbon dioxide inside the room because the smoke detector was not working in illegally rented rooms or Airbnb in Taiwan. Found out late that Airbnb reimbursed the matter with money which was around Two million US dollars but after this incident, Airbnb began to move and concern more about safety measures. However, they still let the host or the house owner check by themselves and not having someone from the company to take care of this matter.

This incident shows that when you're giving the service that is related to that person's life or a human being, the most important issue is the safety of life of that person. Airbnb should be more serious regarding the safety and standard of the equipment more.

Afterlife safety comes the property safety of the guests. Airbnb has been the best option for the travelers which is very affordable and pocket-friendly for the backpackers as well. However, study shows that not only backpackers or the

budget concern person stays at the Airbnb houses but the business traveler or the family also comes to stay at the Airbnb houses, most people are not concerned about their belongings because they usually think that if they put the belongings in the room, there's an absolute safety.

#### **2.4.3.2 Safety of the property / belongings**

This topic is not only about the guests but about the host or the owner as well because when you let the stranger come into your house, it is obviously a risk-taking decision and there's a lot of robbery cases everyday not only in Airbnb but everywhere. Both the owner and the guest should ensure that this would never happen and prevent the said situation. First of all, by you can ask the guest to give you their verified passport or id card for the reference before booking your place. This means a government issued id card or passport or a driving license with a photo of the person on it. Second thing you could do as an owner is check the name of your guest on Facebook, google, LinkedIn profiles which could tell at least a bit more about your guest to be.

Also, there's possibility that the guest could damage your house during their stay and you have no idea about it but Airbnb have the remedies for this kind of situation by creating a Host protection program, where the hosts are covered up to 1 million USD in case of damage and injury claims. However, this protection is only and currently available in the United States of America.

However, a lot of the Airbnb house owner were not able to get any coverage from the Airbnb host protection and this will lead to a lot of disappointment for the owner because they hope for the reimbursement but they could not get the money while they hoping that the insurance would cover the damages. There's no way the Airbnb company can prevent the risk completely as you're the one letting the stranger come and stay into your house and it was your choice. However, you can do what the thesis have recommended above or maybe you can warn the guest or giving them instruction of how to use or what to use manual so the property remains the same. But this cannot prevent the guest from stealing anything from your property as well.

### **Here are some cases happened to both the guest and the owner**

Guest case: the family went for a family vacation and has rented an Airbnb apartment after they have checked in the room and left for family dinner. While returning back they notice that all the valuables were stolen and it was Mac book laptop, iPad, tablet, camera and cash in an envelope. However, nothing was stolen from the owner's properties. Here you can't even say that the owner was the one because there's no evidence to support and Airbnb does not cover insurance for the guest and the family vacation was ruined.

Owner or host case: the owner let the apartment of 2 bedrooms on rent and it was fully booked, while another guest was on city tour, a young couple decided to take a knife from the kitchen and cut other guests luggage and they left the place with 2 mobile phones, cash and one pair of shoes and there's no evidence because there's no camera in the apartment and the police was saying that it can be the owner and they don't even check for the fingerprints.

#### **2.4.4 Suggestions**

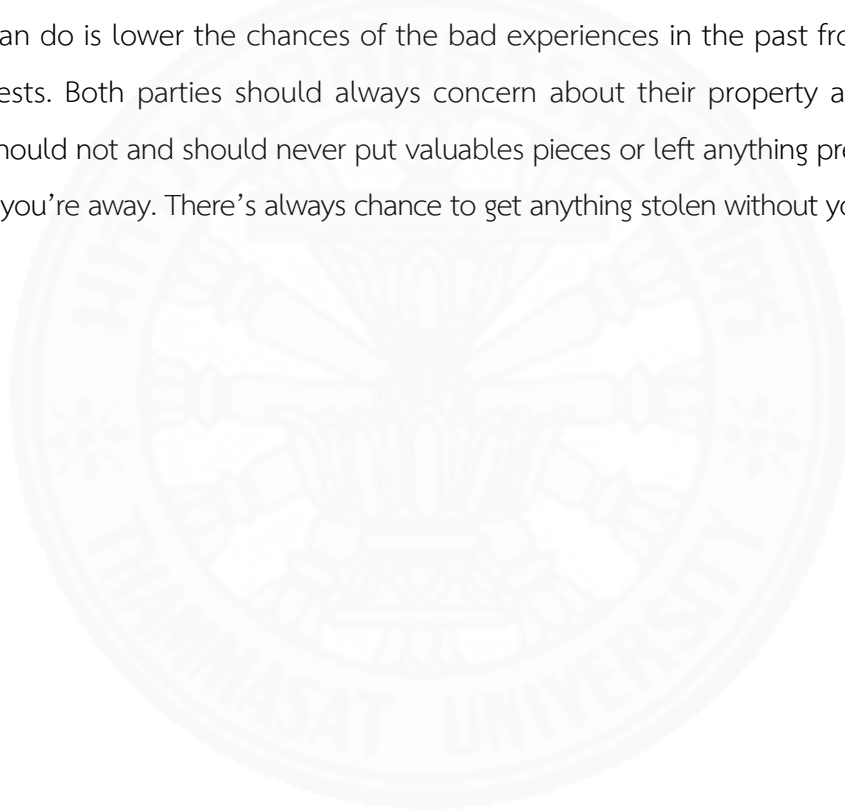
So, the suggestion for both the parties to decrease the chance or the risk on the property or belongings would be:

1. Read Airbnb terms and conditions very carefully and read what is covered and what is not, what would you get paid for and what would not and declare once again with the company
2. Warn or inform the guests in advance, that they are responsible for any damages and they're obligated to pay the money for any losses, you can tell them either by a phone call or just give them information on email.
3. Smart locks, which you can only give access to your guest with the certain number when the check-in and the said number will expire the time the check-out, this can prevent and protect both the guests and the owner's property.
4. Video doorbell, for this device you can control when someone or a group of people has rented your Airbnb house. You can always check who was in and who was out at the time and how many people were actually come into your property. Also, you can check if the person is breaking your rules or not, such as no

guest allowed after midnight and if you have a video doorbell then you can actually see if the guest breaks the rules.

## 2.5 Conclusion

No one can deny that Airbnb is completely safe, no flaws and risks. But this does not mean that you cannot take extra step care of your property or belongings to prevent the certain risks which can affect both you and your customers. At least you can do is lower the chances of the bad experiences in the past from other hosts or guests. Both parties should always concern about their property and belongings, you should not and should never put valuables pieces or left anything precious at home while you're away. There's always chance to get anything stolen without you even notice.



## CHAPTER 3

### LEGAL STATUS OF AIRBNB IN THAILAND

#### 3.1 Introduction

Airbnb-type services are not going away. Hotels, property owners and governments need to find a way to work with these kinds of services rather than trying to shut it down. The best option is to allow the business to exist within defined, regulated and enforced for the good of the country's economy, especially on the tourism of Thailand.

#### 3.2 Legal Status of Airbnb under Thai Law

Airbnb is the largest business platform online for create listing or renting a house or rooms for a short period of time through a computer or smartphone. Which is convenient and easy for tourists all around the world. In the past years, there is around 4 million Airbnb in 191 countries with 160 million of the guests. in the past few years, there are many users of Airbnb because the price and the location are the key where we can find cheap rooms and near tourist attractions. In the view of tourists, it should be considered a good thing because we have a cheap room in a good location also convenience but not for the neighbors. However, there is no specific law or involved authority who support the status of such businesses in many countries. Especially in Asian countries, which results in Airbnb being seen as a grey business or illegal business. The only way to do it in Thailand is that we can amend the law of the Hotel Act and support this online platform.

### 3.2.1 Growth of Airbnb Business in Thailand

Airbnb in Thailand, if talking about the growth<sup>16</sup> of this gray business in Thailand, it can be said that it can generate income for business owners and accommodation contributors. There are more than 61,400 rooms under Airbnb in Thailand during February. Year 2017 - 2018 generates a combined revenue of approximately 3,800 million baht, while in 2017, there are approximately 1.2 million tourists traveling, increasing more than 66% from the previous year. With the results of the MasterCard World's Top Destinations Survey in 2018, stating that Bangkok is the world's 1 destination in the world that tourists must visit. These come and camp with the greatest number of foreign tourists staying overnight reached a total of over 20 million people in Thailand.

So basically, Legal status of Airbnb in Thailand is still illegal, because of the rules and regulations stated in the Hotel Act, As Bangkok or Thailand is the most popular tourist destination, we as a citizen of Thailand, cannot ignore this issue as this can get our country to grow economically and made a lot of income into our country. However, the number of tourists is still flowing and is getting higher each year, personally believe that the Thai government should take a serious action to legalize Airbnb in Thailand like in Japan, so there can be a mutual ground for people and for the government. Which overall will make our country and our people earn more each year.

### 3.2.2 Secondary City Campaign under Thai Government

Although the Airbnb does not exist in an obvious way in the form of condo accommodation or other building styles, Airbnb is trying to work more with the government. Therefore, Airbnb's first step to work with the government was on July 6th, 2018 with the local government to promote and the main focus is on persuading people who have private homes and not using them. Including businesses such as homestays to participate in such applications. The campaign cooperation will focus

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<sup>16</sup> Bangkok Post, "Airbnb highlights Thai growth," Accessed June 3, 2019, <https://www.bangkokpost.com/business/tourism-and-transport/1393282/airbnb-highlights-thai-growth>

on tourism in the second city<sup>17</sup> to let the people in the local area to find more income. Such as Chonburi, Chiang Mai, Chiang Rai, Buriram, Ayutthaya, Petchaburi, Songkhla, Satul, Ubonratchathani and Sukothai.

As what many people concern is about the law. For that homestay, there's already a law that has definitions and rules for the people with this kind of business. However, for a private home that will be used to make a place to stay such as Airbnb, it will not be illegal when renting a room for not more than four rooms and the total number of guests is not more than twenty people, As defined in the ministerial regulations Determine the type and criteria of hotel business operation BE 2551, however, the host is obliged to note that Is a service for tourists in the manner of providing non-hotel rooms.

However, in 2018, Airbnb began to be more than a booking platform. Airbnb opened two new services, Airbnb Experience (booking trips or experience anything from local people) and Airbnb Restaurants (restaurant reservations currently limited to restaurants in the United States). This service comes from collecting information and feedback from users. The information that Airbnb adds to the service is probably from the City Guidebook that the owner or the host of the rental place has listed the popular places, such as tourist attractions, cafes, restaurants, shopping places and many other local places.

So now a platform that can reserve anything in the context of tourism, leisure and may include future travel like Airbnb Restaurants. Starting in the USA, testing the availability of Airbnb's restaurant reservations before expanding this service to other countries with potential. Returning to Airbnb Experience in 2018, now Airbnb starts to expand. Initially, Airbnb focused mainly on Bangkok, to test the feasibility in Thailand before expanding the service to Chiang Mai and now we can add Airbnb Experience to Chiang Mai as well.

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<sup>17</sup> TTG Asia, "Airbnb teams up with Thai government agency to onboard local hosts," Accessed June 3, 2019, <https://www.ttgasia.com/2018/07/09/airbnb-teams-up-with-thai-government-agency-to-onboard-local-hosts/>.

However, in the same year, things were noticeable. By not expanding Airbnb Experience and Airbnb Restaurants, but upgrading Airbnb homes to accommodate the growing tourist demand. By adding premium features like Airbnb Plus and Beyond by Airbnb, looking at another angle is creating a premium accommodation base on the tourists who are willing to buy the higher expectations, which can help Airbnb businesses to earn a lot more from existing resources from this house upgrade.

The highlight of Airbnb's changes in 2018 is the new tier of accommodation to help travelers better distinguish each accommodation, were better in terms of quality and facilities.

Many times, the choice of accommodation is a headache for tourists. Hoping that it will hit the target, things that tourists trust and see first is only a description of the accommodation that Host wrote with reviews of people who have stayed at the accommodation to make sure that the accommodation has a coffee maker. Kitchen equipment or even prepared food. Sometimes choosing the accommodation with the same price per night get different expectations like Host, some people only have soap and shampoo for guests while some has prepared well including food and drinks in the refrigerator. Elevating the level of new accommodation for 2 levels helps travelers make easier decisions. To search for accommodation with full facilities and provide a better experience than a typical hotel stays.

Airbnb is still Airbnb, anyway. It is a business that adheres to its own foundation, offering a travel experience that we can't find from a typical hotel stay. Adding new things in 2019 to the expectation that Airbnb is able to enjoy the experience that fits their lifestyle. and more unique experience and more luxurious too. Each time you go to Airbnb in 2019, this is to make Airbnb the next 10 years more memorable than their first 10 years.

### **3.3 Legal Problems Concerning Airbnb in Thailand**

#### **3.3.1 Prohibition under Section 4 of the Hotel Act B.E.2547**

In summary, it is in our country, Thailand, there is still much confusion as to how to rent a condo daily or weekly? Which the laws can be seen that there is

only one law that "prohibits" is the Hotel Act, but the Hotel Act itself has exceptions. If renting less than 4 rooms in a condo in the same building and informed the registrar in the form prescribed by the Minister of Interior (Ministerial Regulations BE 2551), it will not be considered illegal in any hotel. It is because it's not considered as a hotel business but here is the ambiguity of Thai law. That is to say, if we have less than 4 suites and want to rent daily without regard to hotel law, we must "notify the registrar in the form prescribed by the Minister of Interior. However, the main issue is that the current Thai government does not have rules that must be informed. What documents are to be used? And how are the steps. Makes this "vacuum" exist, and therefore, as long as the notification process is not clear. The owner of the rental condo room doesn't know how to report it or what kind of rental the condo is on a daily basis. Or weekly is still illegal under Section 4 of the Hotel Act. Regardless of whether we have more or less than 4 rooms

If referenced by Section 4 of the Hotel Act 2004<sup>18</sup>, Owner of the place is to release the daily rent itself is considered illegal because it is not registered as a hotel but if renting is not more than 4 rooms, it may not be considered a hotel business. In addition, we have to look at the rules of that condominium. For whether it can be rented or not.

Regarding Airbnb, if we have a look, then it will be similar to Uber, which is a business model that has never been made so there are no clear rules to support. In the future, we may have to look at what Airbnb, as what it will be like in Thailand. However, Thailand is the destination of tourists around the world. We are inevitable to deal with the coming of Airbnb. The main problem is how do we make the country have clear rules? To keep up with the world that has changed.

The purpose of this thesis is considering or focusing on the main law of Airbnb which is Hotel Act, however, there's Immigration Act, the Condominium Act and the Tax Law, which is involved in here too. So, this thesis would like to cover all that topic for further clarification as well.

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<sup>18</sup> Hotel Act, B.E. 2547 (2004), Published in the Government Gazette, Vol. 121, Special Part 70 kor, dated 12<sup>th</sup> November, B.E. 2547 (2004).

### 3.3.2 Prohibition under Section 38 of the Immigration Act B.E. 2522

The legal problem under the Immigration Act is that every foreigner needs to notify the immigration officers regarding where they're staying which can be a hotel, guest house, mansion, apartment, or local house for rent.

The problem is that most of the owner of the property or Airbnb host will not notify the Immigration officers because two main problems which is 1. Airbnb is not yet legal in Thailand and 2. The process is too complicated for the Airbnb host. However, if you notice most condominiums in Thailand has the brochure regarding the immigration act<sup>19</sup> and The Condominium Juristic Person Manager often quoted the owner as having to go to jail up to 10 years, a fine not exceeding one hundred thousand baht because it is considered that the owner of the apartment leads or takes foreigners into the Kingdom or acts as a help or provide convenience to foreigners.

So, the safest way for the owner is that, if you're the owner of the private property in Thailand and if you're hosting or having a guest who is a foreigner, you need to notify the Immigration Bureau, Royal Thai Police or the Local immigration offices where the house or the Airbnb properties is provided for the foreigners. The notification form which is required for the foreigners is TorMor30. We should know that the owner must notify when foreigners come to stay within 24 hours, no matter if they're not paying for the accommodation or even if they're your friends.

In carrying out the notification of the alien's residence under Section 38, the Immigration Bureau has determined the form and method of service for the applicant to choose the appropriate method for the following operations.

1. Bring documents to inform yourself or assign others to bring documents or notices
2. Notify by registered mail or
3. Notify via the Internet network

However, from the record of Airbnb in Thailand, there's no one who gets jailed for opening an Airbnb business, the maximum penalty was only to pay fines

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<sup>19</sup> IMMIGRATION ACT, B.E. 2522 (1979), Published in the Government Gazette, Vol. 96, Part 28, Page 45 Special Issue, dated 1<sup>st</sup> March B.E. 2522 (1979).

which is not that high. And to be honest, they will continue to rent out their houses anyway. Refer from the Huahin case on Jan 5th, 2018, the host pay only 15,000 THB, the second case on Jan 16th 2018, the host pay only 13,000 THB and the third case is still pending. But this does not mean to encourage the host not to do it the right way. But just to let them know that's there's no one got the prison sentence.

Regarding the immigration act, the Airbnb host just tells the foreigner to apply for the TorMor 30 by themselves and you can just provide the basic information for them. However, this immigration act does not prohibit the owner from the rent out their houses for rent whether a short-term period or a long-term period. So, you need not to worry about that because the owner just needs to notify the Immigrations or let the guest notify by themselves that's it.

### **3.3.3 Prohibition under Section 32 and 33 of the Condominium Act B.E. 2522**

Regarding the condominium act section 32 and section 33 the law said that Condominium juristic person is responsible for managing and maintain common property According to the condominium juristic person regulations and according to the resolution of the co-owner, which according to this Act, regulations may include rules for the use of personal property (Such as renting a room) and common property

But If the owner of the condominium unit is renting out the room which is less than 4 rooms, it can be done because it is not considered a hotel business. The juristic person will not have the right to prohibit the owner of the room for rent. Only right to prohibit others from using public areas and using the case if found that the owner of the room brought the condominium to advertise the same style as the hotel which is considered to cause the condominium to lose its reputation

In the view of the owner of the room, most of them still need to pay for the installments of the condominiums. They're trying to seek extra income from everywhere to pay the pending money and If there is a daily rental opportunity to get money faster, and the owner needs to do is clean up a little and keep the room condition of the room in a good manner then you get the money very easily. unlike the monthly rent. The contract is for years. And it is not always easy to find a new one renter, it may take a big break. But to only rely on monthly rental income is not always

work because the contract can be terminated anytime. While the market for tourists and people who want short-term accommodation is more selective

In the view of the neighbors, there will be a different feeling. Neighbors would not like to listen to the sound of people dragging their bags out late at night. Neighbors may not like to see strange faces. Neighbors may be disgusted by foreign people or disgusted by some ethnicities. Guests themselves may not respect neighbors' rights. Guests may be drunk or listen to the songs loudly and may not know the rules of the common area and who knows, some guests might be criminals as well.

Daily room rental, in addition to good returns, the owner still does not have to pay taxes separately, therefore this issue has become a continuous issue, in which the hotel operator considers to be a business that is not fair to those who act legally and questioning that the law should be amended. Like the government needs to amend the law regarding the hotel act, immigration act, tax law and lastly the condominium act to prevent the guests from doing illegal things in our country (i.e. Thailand) and for the owner to pay the tax regularly and legally as a normal Thai citizen.

Being said from the above paragraph, the present condominium act has no prohibition on daily rent or weekly rent but Co-owners can call a meeting. And has resolved to amend or enter in the "Regulations of Juristic Person Condominium" that it is prohibited to have a daily rental or weekly If this is the case, the owner of the room (Airbnb Host) will not be able to rent the room on a daily basis or weekly.

### **3.3.4 Prohibition under Section 674, 679 and 1337 of the Civil and Commercial Code**

Regarding the prohibition under Civil and Commercial Code, does not specify directly for Airbnb or online platform. However, for example these are the sections which can be applied, under Sections 674 to 679 of the Thai Civil and Commercial Code (CCC) a hotel is liable for any loss or damage suffered by its guests, even if such loss or damage was caused by strangers, and it is not clear whether the Thai courts would apply these sections in the case where a condominium unit is rented out.

Finally, other co-owners often feel that frequent arrivals of new Airbnb tenants negatively affect the quality of life in the condominium in many regards.

However, the most fundamental legal provision in this context is Section 1336 of the CCC which provides that within the limits of the law, the owner of property has the right to use the property and is entitled to its fruits. And for co-ownership Section 1360 of the CCC sets forth that each co-owner is entitled to use the property in so far as such use is not incompatible with the rights of the other co-owners.

Also, under Section 1337<sup>20</sup> of the Thai Civil and Commercial Code stipulated that the “if a person in the exercise of his right cause to the owner of an immovable property greater injury or inconvenience that should naturally and reasonably be expected or anticipated, having regard to the nature and situation of such property, the owner is entitled, without prejudice to any claim for compensation, to have such injury or inconvenience abated.”

In this section, will be stated together with the Public Health Act B.E. 2535 regarding the Nuisance in the property of Airbnb because the owner has the right to deal with the person and ask for the compensation as well.

### **3.3.5 Prohibition Under Section 25, 26 and 27 of the Public Health Act B.E. 2535 (1992)**

The legal problem under Public Health Act B.E. 2535, is that the source of Nuisances under Chapter 5 section 25, It is because this is also affecting the interpretation of the rights and authorization of the juristic person of the various condominium as they have to deal with the common area and peace in the overall place. While the owner of the room has the right as the owner of the room itself that can find the most benefit from the room.

However, there will be questions about the responsibility in the event that the Airbnb guests create trouble for other room owners, damage to property, or make noise pollution in the common area where the room owners are relaxing and who will be responsible for the unsafe situation like that. That is why the Public Health Act has the role here because if anyone causes the noise pollution, the Public health Act has stipulated under Section 25 that is it wrong and we can file a complaint under

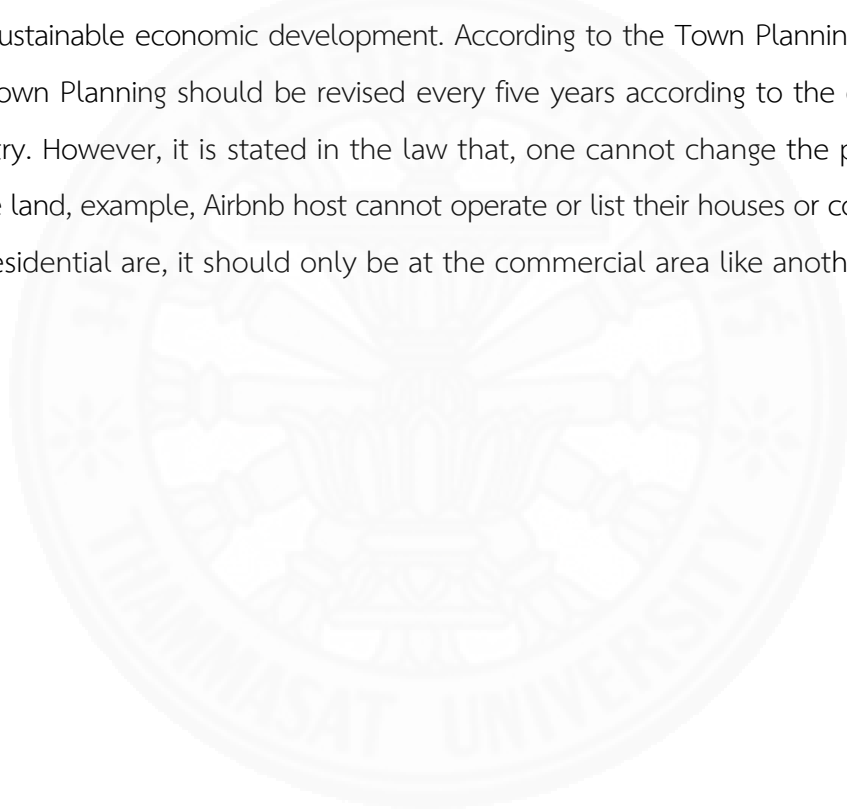
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<sup>20</sup> Thai Contracts, “Thailand Civil and Commercial Code (part III),” Accessed June 3, 2019, <https://www.samuiforsale.com/law-texts/thailand-civil-code-part-3.html>.

section 26 and 27, so whenever, the neighbors make noise pollution then you can notify to the juristic person to take serious action. However, if the juristic person or the police have told or give them warning but it does not work then according to the law, they must be fined in the amount of 2,000 baht.

### **3.3.6 Prohibition Under Section 4 and 10 of the Town Planning Act B.E. 2562 (2019)**

Section 4 of the Town Planning Act B.E. 2562, is the part of Thai law, which concerns land use planning. Its goal to ensure a better environment in the country and sustainable economic development. According to the Town Planning Act Thailand, the Town Planning should be revised every five years according to the changes of the country. However, it is stated in the law that, one cannot change the purpose of use of the land, example, Airbnb host cannot operate or list their houses or condominium at the residential are, it should only be at the commercial area like another hotels.



## CHAPTER 4

### LEGAL STATUS OF AIRBNB IN UNITED KINGDOM AND UNITED STATES OF AMERIC

#### 4.1 United Kingdom

##### 4.1.1 Introduction

The United Kingdom is a city of sports and education. However, tourism is one of the UK's most valuable industries. The United Kingdom has a good atmosphere and has many tourist attractions such as London eyes, Buckingham Palace, Roman Bath, River Tyne and Oxford street etc. It is a perfect place for every kind of people as the United Kingdom has so many places to visit and shop. Therefore, the United Kingdom's overseas visitor breaks through 40 million for the first time in 2018<sup>21</sup>. That's why English people always said 'Great by name great by nature' because we are 'Great Britain'. However, there are so many types of accommodation all over the United Kingdom such as Hotel, Motel, Guesthouse, apartment, condo and Airbnb etc. it is actually depending on the people and their budget, the area of stays and purpose of visiting that's all.

##### 4.1.2 Legal Status of Airbnb Under the United Kingdom Law

The United Kingdom visit Britain and Visit England have joined as a partner with Airbnb to promote local tourism of United Kingdom to let people come and visit so the Government can boost their local economy and income. The reason behind why they have partnered with Airbnb is to promote marketing product such as local experiences, tour program lead by the local experts and other activities, therefore, Airbnb can also generate income from those activities. The target of this campaign is mainly for the young population of the Great Britain as the Government wants to boost young people to travel more across the country. So, this new partnership which has

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<sup>21</sup> Visi Britain, "Tourists to UK forecast to spend record level in 2018," Accessed June 3, 2019, <https://www.visitbritain.org/tourists-uk-forecast-spend-record-level-2018>.

established in 2019, will be the reason of the increasing own fresh revenue for local business, the government and Airbnb itself. Also, will help the United Kingdom gain the number of tourists and promote their locality<sup>22</sup>.

#### **4.1.2.1 Things to Consider before purchasing an Airbnb Investment Property in the United Kingdom**

Most of the landlord's main problem is managing and face the problem of late payments of the rent or tenants breaks the rules or demanding tenants or worse case is complaints from the nearby property's neighbors and it is the most stressful period of time for the owners or the landlords as they have not many options to deal with. So, to avoid these kinds of problems, the landlords are choosing to give out their property for a short period rent on Airbnb. It is because Airbnb is a platform where the landlord gets to increase their rents and get more in return and it is also flexible for short stays. The landlord or the investors are moving from the traditional long-term lease agreement to take more advantage of their properties by renting it out and make more income through the platform of Airbnb. So here are the things that the property investors or the landlord should consider before purchasing an Airbnb investment property in the United Kingdom.

##### **1. To check the rules and regulations & local laws of the country**

Before you start house, hunting or buying any property for Airbnb or another short-term rental platform in the United Kingdom, the investors need to make sure if Airbnb is recognized or legal at the exact location of the property. It is because there are many cities in the world where short term rentals are illegal or they have very strict rules for people to operate the said rentals. So, it would be great if you could check the regulations to ensure you're on the right side of the law.

##### **2. Seasonality and Location**

These are two important facts for those who want to operate an Airbnb business platform in the United Kingdom as the location is one of the most important facts here. So, the better way is to check and study the potential of an Airbnb

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<sup>22</sup> Paul Stevens, "Airbnb partners with Visit Britain and Visit England," Accessed June 3, 2019, <https://shorttermrentalz.com/news/airbnb-visit-britain-visit-england/>.

investment. Consider how much the owner would earn in terms of yearly income on a short-term period rents and compare it with the traditional long-term lease agreement on the chosen location.

As for the rates it can be changed based on the season too, it is because United Kingdom's has very confused weather, sometimes it would rain all day and some days it could cold and windy and summer sometime. Therefore, make sure the owner is aware of that because in the peak season the rate can go up and extremely on demand. However, on the low season, there would be not many tourists visit the country.

### 3. The hidden costs

The property owner might not aware but the owner might need to face the property expenses. Which is not only the property expenses but also the general wear and tear, the cleaning expense, damages, landscape expense and utility expenses. The list goes on and on. That's where the owner needs to plan the unexpected costs. Therefore, buying an Airbnb property investment, the owner needs to learn about all the expenses before running the business.

### 4. Airbnb is not a passive investment.

So, the idea of Airbnb is that it is a short-term rental with a constant ever-changing guest, the owner will have to check the guests in, be available 24 hours to answer the questions both online and offline and to ensure the guests if they have any problems and promptly giving them feedback. The owner needs to ensure that they are ready for an Airbnb investment and is able to manage the property and the service. The owner has to take care of the whole process and providing support all the time if needed. The owner needs to dedicate enough time to manage their property and you might consider a property management service.

#### **4.1.2.2 Legal Status of Airbnb Under English Law**

##### **(1) Legal status of Airbnb in the United Kingdom**

Airbnb reported that there are 5.9 million people who have used Airbnb website in the year of 2016 and 2017 and that is a huge number and it is a sign of the Airbnb popularity and it is just not for the overseas tourists but also for a staycation of the British people for a domestic trip across the country where the

revenue of Airbnb increases by over 20% according to the website<sup>23</sup>. However, there are laws and restrictions that the owner needs to follow. Such as national taxes, city and regional rules, general regulation and permission, safety, Insurance and other hosting information, which required the owners to follow and ensure that they have complied with the particular rules.

## **(2) The Residential Landlords Association on Airbnb in the United Kingdom**

According to the short-term rental business in the United Kingdom has been popular and concerned by so many people, Airbnb website registration in the United Kingdom has increased by 200 per cent in 2015 to 2017. The most attention is on the most visited city like London and the community in England's regional cities are also feeling the effects. So, these changes help the property investor to increase or invest more in housing to raise rent and develop more unites. Airbnb has given people a new way to earn money on their property even it is just a small room or an entire house. So that's why to limit and control the owner or the investor, authorities have introduced a cap or maximum short-term rentals to 90 days per year. To help people to ensure that the housing built for the resident is not taken out for long-term rental and only used as a business asset by the owners. However, the concern of the Residential Landlords Association is that all the businesses which currently offering accommodation should compete on a level playing field<sup>24</sup> and also the safety concern of the property and its people because it is difficult to see the potential risk. However, the owner or the investor should be advised to ensure that the properties are safe. Therefore, the Short-Term Accommodation Association said that Airbnb has adopted the health and safety standards from the long-let industry to ensure that the property is safe.

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<sup>23</sup> Emmanuel, "What to consider when investing in short-term rentals," Air Sorted Blog, entry posted July 26, 2018, <https://blog.airsorted.com/airbnb/what-consider-when-investing-short-term-rentals/> (accessed June 5, 2019).

<sup>24</sup> Helen Clifton, "Growth in short-term-let market raises fire concerns," Accessed June 3, 2019, <https://www.bbc.com/news/uk-england-43718864>.

### 4.1.1.3 Legal Problems Concerning Airbnb in the United Kingdom

#### (1) City and Regional Regulations concerning Airbnb

There are some cities in the United Kingdom that has a specific rule. Here is the idea of 2 cities which is London and Glasgow.

1. London has 3 major rules that control Airbnb in the area of London and greater London, which are, the short-let regulations, the council tax and the planning permit. So, in the said particular area have their own rules which comply with the city authorities to make sure that you're allowed to host a short-term rental in your area and doing it legally with the help of the government.

2. Glasgow, in 2017, there have new rules and restrictions on the short-term rent as the owners are not allowed to rent out your property for a short-term period. However, the only way you could get the permission is that if you want to rent out your room or house in Glasgow, you will need to also stay in the same property with the guests as well. However, the record said that Airbnb guests boost the Scotland economy by 1 million pounds and Airbnb is also ready to discuss further with the authorities to make it right as in London as well.<sup>25</sup>

#### (2) The short-let regulations

There are now have a lot of great platforms for booking accommodation online in the United Kingdom to rent out your properties on a short-term basis and Airbnb is the most popular platform. However, there are numbers of short-let regulations, where you need to follow and be aware of if you're planning to rent out your property and to ensure that the owner is on the right side of the law and compliance with the rules as well. Here are the four things that should be followed if you're planning to make more income by renting out your properties.

1. The 90 days per year limitation in London: In order to follow with the rules, Airbnb is now under the rules of 90 days, where the owner cannot rent out their properties for more than 90 nights limit per the calendar year. This rule applies

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<sup>25</sup> Jane Bradley, "Restrictions could be slapped on Airbnb short-term holiday lets in Scotland," Accessed June 3, 2019, <https://www.scotsman.com/business/companies/restrictions-could-be-slapped-on-airbnb-short-term-holiday-lets-in-scotland-1-4659457>.

to everyone in the great London area. Also, this rule applies to the entire house not only the particular rented out room in the house.

2. Planning Permit in London: However, from the above case, if you have issued a planning permit by the local Council which allow you to rent out your property for more than 90 days a year for private individuals only. This called 'Temporary Accommodation', the owner needs to apply through the online government site and all you have to provide for more than 90 days per year is the flood risk assessment, land registration documents and government fee.

If you're renting out your property for more than 90 days year without registering the planning permit then that would not be possible as Airbnb has created the restrictions on their sites in order to comply with the laws and regulations and the owner would be blocked immediately if they have any additional bookings up to 90 days and you will not be able to do so.<sup>26</sup>

3. The Council Tax: Regarding the 2015 Deregulation Act said that everyone is responsible for providing the short-let rental accommodation are under a legal duty to pay the council tax. It is a must and required if you're planning to rent out your property. Also, you need to get a gas safety certificate in order to declare that the particular property is safe and also the owner must carry out a fire risk assessment on a yearly basis. Apart from that, the owner should also get the smoke detector and a carbon monoxide alarm.

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<sup>26</sup> Lucky by Airbnb, "How to apply for an Airbnb planning permit in London," Accessed June 3, 2019, <https://luckyhomes.uk/tips/how-to-apply-for-an-airbnb-planning-permission-in-london>.

## 4.2 United States of America

The legal status of Airbnb under the United States of America law

### 4.2.1 Introduction

Airbnb is a market where they keep an eye on the hotel rates and making additional rooms available at the most visited place during the peak season of the country because when hotel rooms are full or sell out and rates are super high then there is a chance for Airbnb to make some more money even if the rates are high people are still going to book Airbnb because there are no other options available. However, even it is being said that the United States of America is one of the top countries for the tourists to visit and it is in the top 10 cities with the largest Airbnb market share and that's why hotels revenue is dropping. There's a study shows the competition between Airbnb and traditional hotels booking<sup>27</sup> are very high. However, both hotels and Airbnb have their own marketing game plan because Airbnb mostly compete with the hotels during the peak season just because they did a research on how much one person could pay for a night during the peak season of the country and the guests feels like the price is more reasonable and Airbnb has a great accommodation as well. Airbnb has offer listings in 191 countries around the world and the major reason why people choose Airbnb over hotels in the United States of America is because of the price. Also, Airbnb rooms are everywhere in the cities with good accommodation as well as the locations if compare with the expensive hotels around the same area as Los Angeles, San Francisco and New York. However, not all the cities are affected by Airbnb because some places like Atlanta or Houston has enough hotel rooms to satisfy the demand of the tourists and people doesn't find it attractive to enter the Airbnb market. Therefore, Airbnb is beneficial for the hosts because they can quickly adapt to

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<sup>27</sup> Chaira Farronato and Andrey Fradkin, *The Welfare Effects of Peer Entry in the Accommodation Market: The Case of Airbnb*, (Cambridge: National Bureau of Economic Research, 2018)

the market needs and also keeping the rooms or house for private use when the price is low and not profitable.

Hotels in the United States also fight back in 2016 by the American Hotel and Lodging Association with the Federal Trade Commission to investigate Airbnb's impact on local housing prices. It is because Airbnb is forcing hotels to step up the competition and the problem for hotels is fixed investment costs and budget limitations. Also, the home-sharing concept is likely to gain more people to use in the future because people are now aware of their benefits so it is very important for the hotels to find a way to compete with Airbnb at the same time.

#### **4.2.2 Things to Consider before purchasing an Airbnb Investment Property In United States of America**

Making money with Airbnb is one of the most common investments currently in the real estate market. So before planning any type of real estate investment in the United States, you must find a property that suits your purpose of the investment. However, location is one of the most important things to consider. Moreover, you should have your own rental strategy and how much would you get back in return. Below are the things to consider before purchasing or investing in the property for Airbnb purpose.

1. Location and use the heatmap analysis tool

The most common questions when investing in real estate is that where to invest and how can one get the best location because you would want to find the location where you get a return and it is potentially profitable must more than the price of the property. The investor really to study the market area and the purpose of having an asset on the Airbnb platform. Considering rates, current charges and the profit altogether. However, there is a helping tool for the investor where you can find it online to spot the best Airbnb investment opportunities. It is because the tools would help you to observe the best Airbnb properties and sale that going around the specific area and shows the best place to invest with the cheapest and most profitable properties.

## 2. Avoid where regulations are stringent

The investor needs to find investment opportunities where the short-term rental regulations are allowed to do because some places have very strict regulations to use Airbnb. However, in other cities of the United States, registering your property and getting a permit or obtaining a license before putting your property online and get the customers has become mandatory. Therefore, in order to have the best Airbnb property, the investor should reach out to your local city council and ask about the requirement of the recent rules and regulations governing Airbnb rentals. That being said, we recommend you to invest your time looking into regulation across the United States and learn where is the most flexible place so far to ensure that the investors are on the right side of the law and regulation.

## 3. Have a Strong Insurance plan including health and safety

Just in case, the investors always need a backup plan because not everyone is lucky, sometimes your rental property is damaged so that is why insurance plan is required. However, Airbnb has its own insurance coverage called ‘Host Protection Program’. For the health and safety, the investors need to take full responsibility to ensure the guest’s safety because if not then you might get into a lawsuit, you can just provide the smoke detector, first aid kit, number for emergencies etc.

### 4.3 Legal Status of Airbnb Under American Law

#### 4.3.1 Legal Status of Airbnb in New York

It is a no surprise that the New York city is one of the most USA’ biggest tourist spot and New York alone has over 16,000 Airbnb listing on the website. However, the strictest Airbnb regulations are found in New York and San Francisco and Santa Monica. It is because New York law allows an only permanent resident to rent out the property in which the landlord or the owner of the property must be staying or present during the stay of the guests where the stay should not exceed 30 days.<sup>28</sup>

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<sup>28</sup> Airbnb, “Traveling help: New York,” Accessed June 3, 2019, <https://www.airbnb.com/help/article/868/new-york—ny>.

Here are the laws and regulations of New York City that should be in consideration for future investors.

1. Business License: You must obtain a special permit or a license before investing in Airbnb rental properties under the law of City's new business portal<sup>29</sup> and the New York Administrative Code or called ADC

2. Rental Control: If you live in a property where it is under rent control, the first thing you should review is that the 'The New York Rent Guidelines Board's website'<sup>30</sup> to see if your investment property is subject to rent stabilization or rent control and to ensure that you are not violating any regulations.

3. Taxes: New York City has implemented rules and regulations for the tourist use for a short-term occupancy of the property is subject to some certain exemption. Such as City hotel room occupancy tax, state and city nightly room fees etc.

Above mentioned are the example of the rules and regulations of Airbnb in New York City to help Airbnb and the Government working together to and help to understand Airbnb benefits towards the community.

#### **4.3.2 Legal Status of Airbnb in San Francisco**

As mentioned above, San Francisco is one of the strictest for Airbnb business same as New York, where the owner or the landlord must stay or present with the guests during their stays. However, the duration of the rental must not exceed 90 days and must register with the city council before putting the property and accepting guest on a platform like Airbnb. However, San Francisco is one of the most profitable Airbnb cities at the start of 2018. Yet, still due to the new Airbnb laws and regulations, it is because short-term investments for Airbnb is strict now and the city might face some more difficulty in putting the property online. To avoid falling into the illegal part of the laws, the investors need to keep an eye on the updated existing laws and regulations in Airbnb in San Francisco. Here are the laws that should be considered before your investment.

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<sup>29</sup> NYC Business, "What's required to do business in New York City?," Accessed June 3, 2019, <https://www1.nyc.gov/nycbusiness/startabusiness/>.

<sup>30</sup> *Ibid.*

1. Permanent Residents Only: This rule applies in order to register your property on the listing, you must live there in your property and United States of America particularly San Francisco for at least 275 days per year. Also, you need to provide the full documents in proof that the address you are going to register is your primary residence. And if you cannot provide the proof then you would not be eligible to take part in Airbnb San Francisco.

2. Registration and taxes: Every Airbnb investor must register in the city to obtain a business registration certificate and short-term residential rental certificate in order to put your property on the Airbnb online platform. However, hosts are required to pay the tax which required a 14 percent transient occupancy tax (TOT) on a property reservation for less than 30 days

3. The 90 days rule: The 90 days rule means the limitation where the owner of the property is not present in the Airbnb property of a maximum 90 days a year then you cannot rent out your house for more than 90 days

4. Liability Insurance: Airbnb host is required to cover liability insurance with a minimum 500,000 dollars in coverage.

5. The hotel taxes must be paid: Airbnb investor in the San Francisco must and need to pay the hotel taxes as mentioned above the TOT tax 14 percent and it must be collected from the renters and paid to the city as well.

#### **4.4 Legal Problems Concerning Airbnb in the United States of America**

Difference between legal and illegal cities concerning Airbnb

It is never easy for the investor to create a career path over Airbnb where you don't need to create your own website or payment platform or system or pay for online marketing etc. Airbnb is the platform where they take care of all of it. However, the said platform has a lot of barrier to face, some people have transformed their houses or real estate into a rental property. And the said investment is good and beneficial for both the investors and the travelers. Travelers now have a lot of choices for the accommodation and it is no longer pricey and budget friendly. This quick growth of short-term rental of Airbnb is a threat to the established hotel's industry as hotels now

has a very good reason to be worried because the growth of Airbnb may contribute to a downturn of the hospitality industry all over the United States. Therefore, the hospitality industry is now responding to the Airbnb business by asking the Government or the Local authorities to limit Airbnb. As mentioned above in New York and San Francisco has already implemented the restrictions. Another example is the city of Chicago prohibits the listing of the real estate in specific zoning and San Jose allows rentals for only 180 days per year.

So, in the United States, they have both the place where it is legal and illegal to operate Airbnb business. However, is it legal or illegal the government has declared that the city needs to look for these restrictions below for operating Airbnb.

1. Legal framework. & Legal restrictions: The first question would be whether the city you are investing has a legal framework on short-term rental and if it is recognized by the city. The second question would be the limitations on the example of a short-term rental like a limitation of the durations per year and if the property can be rented out and if the investor has registered as a primary address and is present during the stay (New York and San Francisco)

2. Tax obligations: Taxes are required to paid by the investors or the owner of the Airbnb properties as it is required by the city authorization and the tax amount depends on the city's short-term rental policy because currently, Airbnb does collect taxes in the United States jurisdictions. However, cities required paying tax by Airbnb is higher than the rate paid by the hospitality industry.

3. Licensing requirements and Hostile enforcement: Licensing is required by most of states in the united states based on the number and cost of the filings that the required from a short-term rentals period. Depending on the cities. Regarding the hostile enforcement, example like include inspection requirements, restrictions on location, occupancy limits or retractions on accessibility.

#### 4.5 Conclusion

Therefore, regarding the law of United Kingdom, mainly London area, the government are ready to support the Airbnb business to make more income and increase the country's revenue, however, it should be governed by the government and has to follow the rules of 90 days per year of stays.

For the United States of America, there's still have more restrictions compared to the United Kingdom it is because America is most listing Airbnb places in the world and the hotel business is demanding for some restrictions over Airbnb so that they can also have the income for the hotel's accommodation.



## CHAPTER 5

### COMPARATIVE ANALYSIS

#### 5.1 Comparative Study

This chapter has demonstrated the analysis of problems that happened in Thailand, United Kingdom (mainly London) and the United States of America (mainly New York and San Francisco) on the ground of Airbnb business in accordance with the recognition of Airbnb in each country and the law based on Airbnb business. Which include Town Planning law, Condominium Act, Hotel Act of Thailand.

##### 5.1.1 Analysis of Thai Laws

Regarding the fact that Airbnb is not legalized or recognized in Thailand yet as we have many laws involved and it is complicated to make it legal. However, the majority of Thai people would still want the government to recognize it and make Airbnb business able for everyone to list their asset in an online platform like Airbnb. Moreover, Thailand is one of the most popular travel destinations for every age of group tourist. As tourist continue to visit Thailand, business operators have their opportunity to provide various kinds of accommodation.

However, if we look into the short-term accommodation rental services in Thailand, it is still illegal under the Hotel Act B.E. 2547 (2004), it is because providing temporary accommodations for less than one month is considered as carrying a hotel business in Thailand and the owner needs to get the hotel license as it is required by the law.

Also, there's a limitation under the Condominium Act as well, as renting out your assets (i.e. condominium rooms) on a daily basis might be like conducting a commercial business and violate the Condominium Act is refuse to allow commercial activities and in the case of foreigners, the foreign business act might involve.

Furthermore, it is violating the Civil and Commercial code and Public health Act, as other neighbors or the tenants around your asset might not enjoy the

standard of safety as it is disturbing to see new faces every week and they always shouting and making noise every night. This could violate both Civil and Commercial Code under section 674 and 679 regarding that the hotel is liable for any loss or damage by its guests even such loss was caused by the strangers.

Lastly, the Immigration Act, this is the issue of reporting the guest information to the immigration bureau. The law says that any person who brings in foreigners into Thailand unlawfully or does anything to help or facilitate their entry into the country will be punished. The law enacted mainly because of the human-tariffing in Thailand rather than improper hotel operations. But the condominium management has a right to say that condominium owner must notify the arrival of the foreigners to the immigration police within 24 hours.

However, regarding the Town Planning Act, it is true that there's a new law which has been enacted recently in June 2019 called Order of the National Peace Keeping Council No. 6/2562 Regarding measures to promote and develop certain types of hotel business standards.<sup>31</sup>

By which the government has the policy to promote hotel business and make it legal and monitored by the government where some of the building, the residential house appears to serve as accommodation for the people to provide services in the form of the hotels at the various tourist's attractions just to make more income on their household. However, there are more than twenty thousand of these cases that are not allowed to be really executed and due to the law of land use regulations in accordance with the ministerial regulations to enforce the Town Planning. It is yet not complying with the city plan law and hotel acts which there are thousands of hotels in more than 50 provinces in Thailand.

Therefore, this law does not help Airbnb or any other online platform, it is because the said law only helps the hotels not houses or condominium. So, it is necessary to resolve the existing laws. and, by virtue of Section 265 of the Constitution

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<sup>31</sup> Tanawit Tonekunya, "M.444 to control illegal hotels Effective immediately! Rental business Prepare to adapt," Accessed June 12, 2019, [https://www.ratchakitcha.soc.go.th/DATA/PDF/2562/E/151/T\\_0017.PDF](https://www.ratchakitcha.soc.go.th/DATA/PDF/2562/E/151/T_0017.PDF).

of the Kingdom of Thailand in conjunction with Section 44, the leader of the National Peacekeeping Council, therefore, has the following orders

Clause 1. From the date this order comes into force until 18 August 2021, the operation of the hotel business in accordance with Article 3 of the Ministerial Regulations prescribes other types of buildings that are used for the hotel business.

Hotel business B.E. 2559 received an exemption from the enforcement of the ministerial regulations to enforce the city plan according to the city planning law and local ordinances, designated areas, prohibiting construction, modification, demolition, moving and using or changing the use of buildings

Clause 2 For the benefit of controlling the operation of the hotel business from the specified date, The hotel business operator in accordance with article. 3 of the Ministerial Regulations, prescribes the characteristics of other types of buildings used in the hotel business in 2016, which are used in the hotel business on the day before the date of this order. Forcing and building that is a violation of legal requirements in any case then the owner needs to notify the local office about the violation and improve the safety system of fire shall be in accordance with Ministerial Regulation No. 47 which says that the building or the house needs to install mobile fire extinguisher.

However, from the above, this new law only benefits the operation of the hotel businesses in Thailand but not include houses, condominium and guesthouses.

### **5.1.2 Analysis of United Kingdom Laws**

When deciding whether to operate an Airbnb business or not, it is very important for the business operators to know and understand how the laws work in that particular area or that city.

Some cities have their own laws that restrict ‘do and don’t’ in this business. These laws are often part of the city’s law. Like you must register or get a permit or a license for operating and listing your property, it is because some certain type of short-term period is still prohibited in some cities and there’s a huge penalty for it.

The United Kingdom especially greater London has a restriction regarding the short-term period business by restricts the days of the stay which is not

more than 90 days a year and if the owner wants to exceed this limit, then they must apply to the local authority for the 'material change of use'. Therefore, the owner should contact the local authority planning department to see if there are any other planning rules apply to your property as well.

However, the owner needs to comply with the laws of 90 days annually limit in London and this law applies to the entire home listed within London and Airbnb will keep tracking your days itself to see if your property is listing for more than 90 days, if yes, then Airbnb will automatically block the bookings of your listing once your property reached the limit of 90 days. This rule has been applied because Airbnb plays a major role in the tourism and travel industry in London and it is the second largest market in terms of online property platform.<sup>32</sup>

Therefore, if we compare to Thai laws, we can see that in the UK, operating an Airbnb business is recognized by the government and allowed people to make more income by using their properties. However, they have their own limit e.g. 90 days per year limit. Unlike, Thailand, where operating an Airbnb business is not yet recognized or legalized in Thailand, it is because of the laws and regulations involved in these online business platforms.

### **5.1.3 Analysis of United States of America Laws**

#### **5.1.3.1 New York City**

Using an Airbnb business as an online platform for the short-term rental service that allowed homeowners to rent out their properties for the side pocket money is very popular of ways for budget-friendly travelers across the world but it is also can be a challenge.

New York, the biggest tourist destination in the United States of America, the tourists are everywhere to see the big apple and yes and people are familiar with the online platform called Airbnb. However, in August 2018, a new law would require the homeowner to provide the local authority with the names and

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<sup>32</sup> Lucky by Airbnb, "The Airbnb and short-let rental regulations in London," Accessed June 12, 2019, <https://luckyhomes.uk/tips/short-term-rental-regulations-london>.

address each month but in response, Airbnb said that it is totally violating the user privacy and rights of the people.

However, there are strict regulations about operating an Airbnb business in New York City, as of now only, the permanent residents are allowed to rent out their property of fewer than 30 days only while the owners are in the properties as well. The laws which you be considered is the rent control and tax policy because it is a short-term rental period and there are taxes that could apply to your listing as it is a competition between the hotel business and Airbnb business while the hotel business paid for the tax, Airbnb has the duty to do the same.<sup>33</sup>

### 5.1.3.2 San Francisco

San Francisco is of the most profitable Airbnb cities in the year of 2018. However, due to the new laws for the online platform renting properties like Airbnb is now restricted and more difficult to invest too. It is because now the owner needs to register and get the business registration certificate and a short-term residential rental certificate to operate Airbnb business in San Francisco and also the owner needs to pay the tax of 14% for the transient occupancy tax on reservations for less than 30 days as well.

Not only the United Kingdom has the 90 days rule, but Airbnb business in San Francisco also not allowed if the owner to rent out their properties for more 90 days and if the owner is not present at the property as well. This means that in San Francisco, there's no Airbnb business without the registration of their property. However, in order to register for listing your property into the online business platform, you need to be a primary residence which means you must live in there for at least 275 days per year with the documents proof of your stay and the address as well.

Therefore, if we compare the laws of Thailand and the United States, we would find that the laws of the United States regarding short-term rental period is quite strict. However, it is for the betterment and it is legal to do the said

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<sup>33</sup> Ranah Asad, "Top 3 Cities in the us with Strict Airbnb Regulations," Accessed June 12, 2019, <https://www.mashvisor.com/blog/top-3-cities-in-the-us-with-strict-airbnb-regulations/>.

business also, the owners are required to pay taxes and register for a permit or license before getting to do an Airbnb business and listing their properties online. On the other hand, Thailand does not recognize or legalize the said the Airbnb business even Thailand is one of the best tourist's attractions in Asia. We still consider Airbnb business as an illegal platform.

## 5.2 Conclusion

The United Kingdom and the United States has recognized the business of Airbnb in their countries. However, they also have put some restrictions over the business to make it fair and equal for the hotel business as well. They know the importance of the tech world, where you can easily book things online and it is easier for every age of the group. Since both countries have a lot of tourists each year and that is what generates revenue of the tourism and travel department. The government does not want to miss the chance or the opportunity to grow and make more income into the country by supporting their people to put their properties in use to make more income because this way both people and the government will get to generate their own revenue and also get more tourists in their country as well.

However, in Thailand, this kind of business is also very popular is being used by the tourists every day but the letting your properties listed in Airbnb in Thailand means it is illegal and not yet recognized so it is illegal. From the survey results from the people around me, they said it is good to have Airbnb recognized in our country because Thailand is the King of travel destination in Asia because everything is affordable from food to shopping and air tickets. However, an online platform for accommodation like Airbnb is not yet recognized. just because short-term rental is not legal in Thailand according to the law. Meanwhile, Airbnb plays an increasingly important part in Thailand's hospitality sector especially in Phuket, Koh Samui and Bangkok, it is because Airbnb offers affordable accommodation and it is very budget friendly for the budget-travelers and it is also contributed in the growth of our country or Thailand's economies.<sup>34</sup>

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<sup>34</sup> *supra note 10*

## CHAPTER 6

### CONCLUSION AND RECOMMENDATIONS

#### 6.1 Conclusions

In 2019 the Government is now trying to relax the rules and regulations for the business of online platform accommodation or any unregistered house or apartment which accommodate or give service of short-rental; therefore, the authorization is trying to regulate and measurement to support the accommodation business in Thailand and enlarging the market for the country's economy.

Amongst the millions of population in the world, Airbnb is one of the first online platforms for booking the accommodation and it does show that Airbnb has been a very successful business overall by providing the reasonable cost for the short-rental accommodation, however, as per the law and regulation of Thailand, currently there's the government and involved authorization are trying to relax the laws to find a simple solution to secure and protect the tourist without any complicated procedures.

Moreover, the accumulated amount of the revenue that gained from the Airbnb business or online platform accommodation by promoting this concept and support the strength of this market in Thailand to not only private sector but also the Government in order to gain the amount of revenue and tourists to over country which will help to grow our country's economy and the safety and securities of the tourists. The power of Airbnb will also support the financial problem the household where people trying to ends meet for their daily living cost.

Also, the Hotel Act of Thailand, should be amended to cover the meaning and the types of hotel operation in Thailand.

Lastly, Airbnb should be recognized in Thailand, so that the Government or the involved authorization can make Airbnb business transparent as currently, this business is not paying any taxes to the government and the ask the Airbnb website to support and keep the track of the Airbnb by registration number and also, tax payment is

required to submit when the host or the owner of the properties is trying to list their asset into Airbnb website.<sup>35</sup>

### Findings

After the reformation of the Airbnb regulations in Japan, the Minpaku Law<sup>36</sup> which was effective in June 2018 to regulate the private houses or residences rented out by the owner as a short-term rental in Japan. So, the new minpaku laws agree to level down the legal procedure for renting out properties as short rental as compared to the previous law, also, there will be no longer be limitations but the minpaku will be applied throughout Japan and there are no restrictions with regard to the type of the property that can use as the minpaku. Moreover, if the owner does not live in the building where they rent out their property, the owner is required to hire a management company to take care of the property.

However, in Thailand, the product of online accommodation platform is ruled as the product of the hotel or condominium which involve hotel permit or the misuse of the limited rental space and take away the affordable apartment from the locals, it is being stated as an unfair competition for hotel business operators who have to comply with many requirements and pay the taxes and huge amount of money the customers. The Airbnb business platform could be profitable and beneficial for Thailand but there is an absence of the Government or involved authorization to promote and raise the accurate understandings to this business.

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<sup>35</sup> Josh Bivens, "The economic costs and benefits of Airbnb," Accessed June 12, <https://www.epi.org/publication/the-economic-costs-and-benefits-of-airbnb-no-reason-for-local-policymakers-to-let-airbnb-bypass-tax-or-regulatory-obligations/>.

<sup>36</sup> Philip Brasor and Masako Tsubuku, "New minpaku law will alter Japan's rental and hospitality landscape," Accessed June 12, <https://www.japantimes.co.jp/community/2018/04/01/how-tos/new-minpaku-law-will-alter-japans-rental-hospitality-landscape/#.XRcgp28zY6g>

## 6.2 Recommendations

Nowadays, Airbnb is having a big impact on the tourism accommodation industry. However, there is still the question exist of why people tend to use or choose Airbnb rather than traditional hotel accommodation and what will be the impact of the traditional hotel business in the future. Airbnb represents a very actual topic and most popular tools in the tourism department, as the fact that younger users are the main customer that could lead to the future expansion of this Airbnb business because a lot of youngsters is starting to do a solo travel or so-called independent travel, meanwhile, Airbnb is not very popular or well known by the senior travelers because Airbnb required to use the technology but the senior could be the perfect Airbnb hosts because usually seniors own a very traditional houses which is, by the way, is very appreciated by the Airbnb users who wants to live as a local and experience the authentic of the place.

However, the study shows that the problematic issue in Thailand is caused by the insufficient of the law and regulations of the online business platform and it is very complicated to use as in the practical situation. Meanwhile, the fact that people had stayed in an entire house instead of the sharing accommodation like Airbnb, However, Airbnb represented a different type of sharing economy service. Also, these days people prefer to stay in Airbnb for a short period of time, which contributes to bring Airbnb accommodation more like traditional accommodation, but the fact that people are not staying at the hotel or Airbnb for not more than 30 days and that is why there's a legal issue due to the illegality of unauthorized and unlicensed rentals in the country.

One of the strongest reasons and motivations why people are choosing to stay at Airbnb more than a traditional hotel service, it is because of the lower pricing system compared to the hotels, Airbnb is peer to peer short term rental which is considered to be a general concept of sharing economy. However, at the hotel, the guests will pay for the standards of the hotel unlike Airbnb, the guests will pay higher price because of the locations or for the amount of space (i.e. the entire house or a small room). The price shows an important role in Airbnb because it is the factors that make the difference between traditional hotel accommodation and Airbnb. Airbnb has been very

well known as a lower price accommodation which is affordable for every age of people and compared to hotels.

Moreover, the best part about Airbnb is that it is easy to use because it is based on how to use the internet to navigate through different Airbnb properties, usually the younger generation is the main market of Airbnb. Maybe it is because the younger generations are not afraid of the challenges and to explore new things, also, they are very used to the online transactions and doing things online such as talking to host online instead of the telephone calls or connect with the host or check the host rates through social media such as Twitter, Facebook etc.

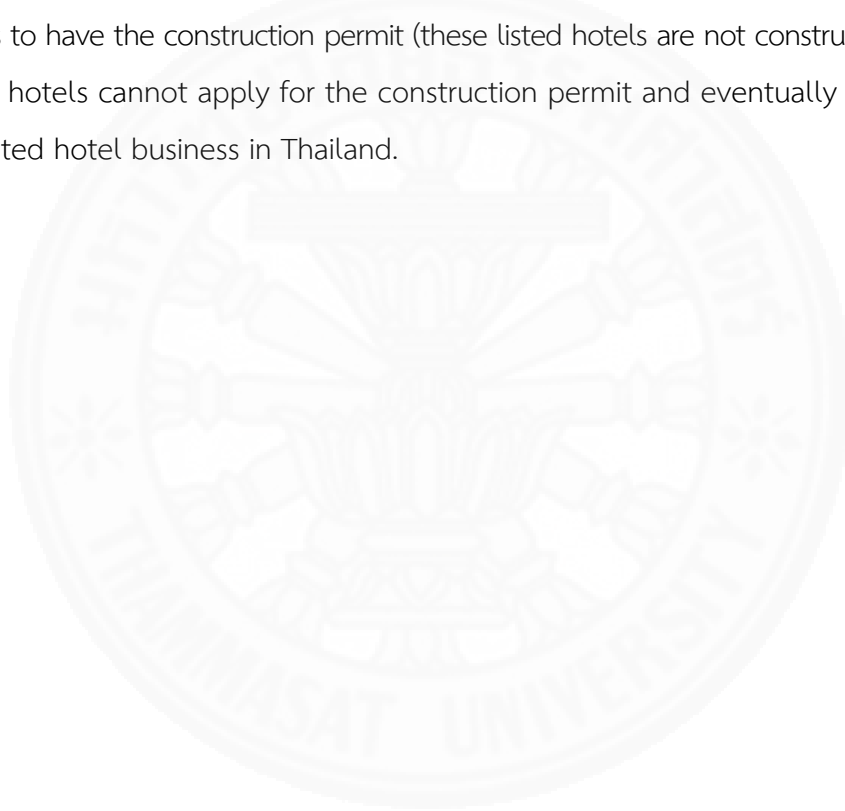
The Positive impact or effect of Airbnb is that they have the power to bring more tourists or visitors to a destination based on the fact that they are going to stay at the Airbnb accommodation. That is why the economy of the country is higher and the government can generate so much income if they allow such online business type in Thailand.

Also, Airbnb is one of the most popular and successful sharing economy business, sharing economy is the economic model that anyone has to share it in the form of rental. (Anything that means property) to create additional value of assets or the simplest terms where it is the use of the technology to facilitate the exchanged access of goods or services between two or more parties and this value exchange occurs through a shared platform or marketplace. This sharing economy concept also making a lot of impact on the traditional industries as people can exchange or pass-through value to their customers.

Moreover, the research of PWC suggests that 83 per cent of people agree that sharing economy is more convenient and efficient than the traditional one. Also, technology has the biggest impact for sharing economy as it does help the concept to grow and the trend should continue as people become connected digitally and many traditional industries or sectors would change it because of the sharing economy.

Nowadays, it is easier for people to access the internet. with a platform that is an intermediary for market share. Sometimes referred to as a peer-to-peer rental market.

Therefore, the main purpose of this thesis is that Airbnb in Thailand should be recognized and regulated to facilitate the country's tourism and economy and ensure the safety of the people who involved in the Airbnb services. In the meanwhile, the government should consider amending Section 4 of the Hotel Act B.E. 2547 (2004) by redefining the definition of the Hotel because, in the current hotel act, hotel means an accommodation established for business purposes of providing temporary accommodation. However, the capsule hotel, treehouse hotel or the gambling hotel are not recognized as the hotel business because for operating a hotel business in Thailand, the operator needs to have the construction permit (these listed hotels are not constructed) therefore, these hotels cannot apply for the construction permit and eventually are not legally operated hotel business in Thailand.



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