

ANALYZING THE IMPACT TO DENVER'S
NEIGHBORHOODS
REGARDING SHORT-TERM RENTALS INCLUDING SHORT-TERM
VACATION RENTALS

INC ZONING AND PLANNING SUB-COMMITTEE FOR SHORT-TERM
RENTAL ISSUES



December 6, 2014

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ANALYZING THE IMPACT TO DENVER'S NEIGHBORHOODS REGARDING SHORT-TERM RENTALS INCLUDING SHORT-TERM VACATION RENTALS

I. Introduction

Short-term rental housing typically means a dwelling unit that is rented for a period of less than thirty consecutive days. In some communities, short-term rental housing may be referred to as vacation rentals, transient rentals, or resort dwelling units.¹

Airbnb, HomeAway², VRBO (Vacation Rentals by Owner) and TripHomes are vacation-home rental platforms³ that have expanded the use of traditional residential homes as transient hotel rooms. Regulations that govern short-term rentals (hereinafter referred to as STRs) in residential districts are getting more attention as planners and residents notice that these “vacation” rentals can have a much greater impact on the community than homes which house long-term year round residents. The impact can be significant.

The INC Zoning and Planning Committee has analyzed the potential impact to Denver's neighborhoods and has identified several significant and substantive impact-risks. Our assessment also includes the effect it will have on affordable housing, key enforcement agencies and Denver governmental departments. The Committee has grave concerns about the real possibilities of unforeseen and unintended consequences of permitting STRs in residential neighborhoods. This is not a problem for another day. The decisions we make today will determine the future of Denver's neighborhoods.



II. Concerns About Safeguarding Denver's Neighborhoods

A. Protection of Neighborhood Environment

- Here tonight – gone tomorrow – without engaging in any sort of activities that weld and strengthen a community.
- Peaceful and quiet enjoyment of one's home and property
- Noise, disruptive and illegal behavior
- Changes the nature of the zoning district



B. Protection of Physical Characteristics

- If allowed without limitations, could change the nature of a neighborhood
- Occupancy limits would need to be defined for each unit
- Multiple STRs located near each other are even more disruptive

C. Property Values

- Decrease in property values for Denver property owners who purchased homes for their families
- Both Colorado statutes and case law require owners of property to disclose known material facts to prospective purchasers or renters of their property. Disclosure of nearby STRs could be viewed as a known material fact.

D. Tourists with irregular hours vs. residents with 9 to 5 or other regular work schedules.

E. Commercialization of Residential Neighborhoods.

- Residential neighborhoods were intended for owners and their families to live in along with nearby schools, playgrounds and related family forums.⁴

F. Protection of Safety for Neighborhood Residents



Registered Neighborhood Organization Meeting

III. Financial and Enforcement Impacts Relating to Denver's Government Issues

A. Additional Governmental Administrative Costs Required if Short-Term Rental/Vacation Ordinance Adopted, Costing the City Significant Oversight and Dollars to Enforce:



- Denver 311 Help Center staff
- Neighborhood Inspection Services (NIS) staff
- Managing tax collections
- Registration, licensing and permitting – Excise and Licenses staff
- Safety inspections – smoke detectors, sprinkler systems, carbon monoxide alarms in bedrooms and fire extinguishers
- Fire Department
- Hearings including Hearing Officers/collection of fines
- Board of Adjustments, Non-conforming uses
- Community Development Department (zoning issues)
- Environmental Health
- Parking and Recreation Enforcement
- Building Permits
- Hotel Occupancy Taxes
- Certificates of Occupancy
- Clerk and Recorder Documents (filing)
- Cashier Services (Webb Building)
- Public Nuisance
- Trash/Recycling
- City Attorney's Office
- Tracking (who, what, where and when)
- Police – preservation of public health, safety, and other aspects of the general welfare.
- Enforcement of limits for number of people or unrelated people staying in STRs
- Additional personnel required for safety and health inspections.

B. If Ordinance Regarding Short-Term Rentals Including Short-Term Vacation Rentals is Adopted it Would Require Enforcement of the Following Existing Ordinances:



- Public nuisance
- Noise limits (sounds which endanger or injury safety or health of human beings)
- Property maintenance standards
- Night time curfew (prohibits persons under the age of 18 years from being on or about public streets and public places)
- Weekend problems (“weekend warriors” – trying to pack the most fun into the least amount of time – greater disruption with light and noise)
- Parking restrictions
- Inspection requirements
- Trespassing
- Disturbing the peace violations
- Enforcement of marijuana violations in public parks and spaces
- Enforcement of other substance abuse issues

C. Americans with Disabilities (ADA) Requirements May Have To Be Complied With.



D. Registration/Licensing Requirements

- Registration and/or licensing would be required in order to provide notice to neighborhoods (needs and desires hearings).

E. Mandatory Notification Postings

- Copy of rules and restrictions for STR property would be required for neighbors



F. Emergency Access Requirements

- Including not only how to exit in case of fire, but also how to turn on and off building security systems, all electrical systems, gas and water services installed in the unit or house.

IV. Zoning Issues



A. Current zoning – What is legal in:

- Residential neighborhoods

In particular, Article 11, Division 11.12, Section 11.12.1 *PRIMARY RESIDENTIAL USES*, Denver Zoning Code provides: Household Living is defined as residential occupancy of a dwelling...on a month to-month or longer basis. (emphasis added)⁵

and,

Article 13, Division 13.3.120 defines the term “dwelling” as “[a]ny building or portion of building that is used as the residence of one or more households, but not including hotels and other lodging accommodation uses, hospitals, tents, or similar uses or structures providing transient or temporary accommodation.”⁶

B. Proximity Restrictions

- How many STRs in a neighborhood should be allowed and how would the number be determined
- Intrusion of commercial ventures into residential neighborhoods seriously undermines the 2010 Zoning Code.⁷
- Character of context-based approach zoning enacted in 2010 would have to be amended after many years of public effort.⁸

C. Condominiums and apartment buildings must have ability to prohibit short-term rentals so as to comply with Declarations and Covenants and Leasing Agreements.

V. Drugs and Crime Issues



- A. Web-Sites (statements and representations) must be legal and comply with the regulations
- Marijuana enticements violate Federal law?
 - How do you protect children in their yards from transients?
 - Lots of strangers and transients magnifies parents concerns for their children's safety
- B. Unintended Consequences –
- A Mecca for out-of-state visitors for recreational drug use.⁹
 - Encouraging students who are not residents to register for Red Cards.¹⁰



VI. Affordable Housing

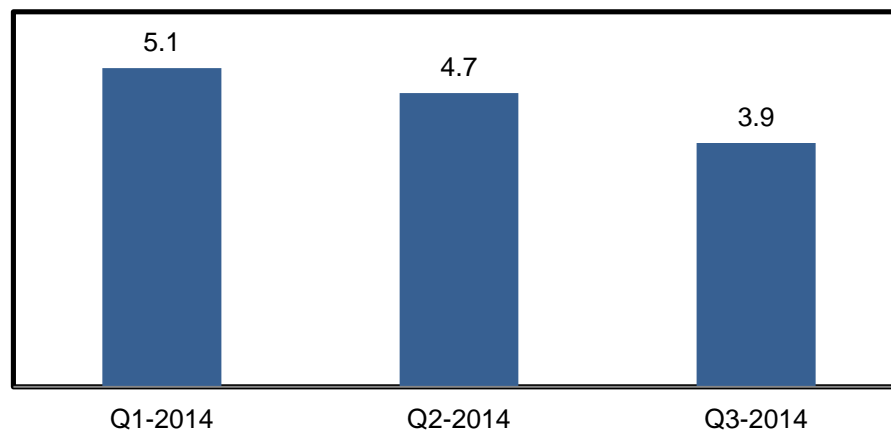


A. Affordable Housing¹¹

- Decreases the affordable rental housing available when property owners elect to rent their homes on a short-term basis rather than renting on a longer term basis.¹²
- Squeezes the supply of housing pushing up the demand and, subsequently, the cost of housing in the community.¹³
- Affordable housing would not be as readily available where people work which can create transportation gridlock with longer commuting distances, creating greater environmental impact.
- STRs deplete the smaller housing for our 65+ aging population, our fastest growing population, trying to downsize.¹⁴
- Lack of affordable housing would have long term economic effects by forcing businesses to leave or not relocate in Denver if workforce needs cannot be met.
- Providing affordable housing can have an effect on health outcomes, standards of living, livability, education and the environment.¹⁵
- Other cities across the world are banning and establishing high fines to try and stop STRs due to the depletion of affordable units.¹⁶

Rental Vacancies Denver
Source: Denver Metro Area Apartment
Vacancy & Rent Survey

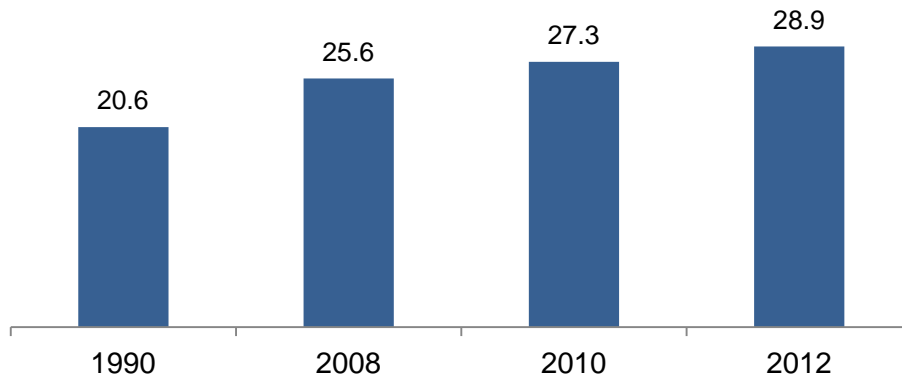
Q3 down 24% from Q1



Percent of Denver Household Income Going for Rent

Source: Denver Post 11/4/14 - Zillow Reports

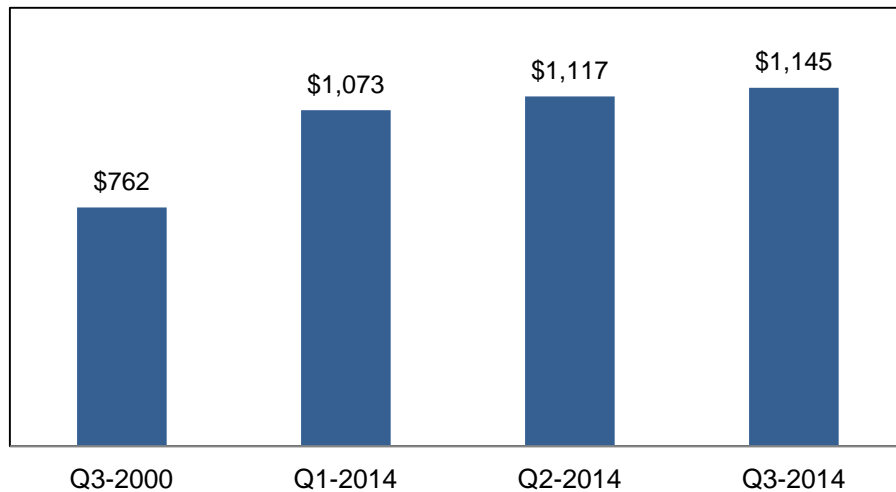
A 6% increase



Average Apartment Rents

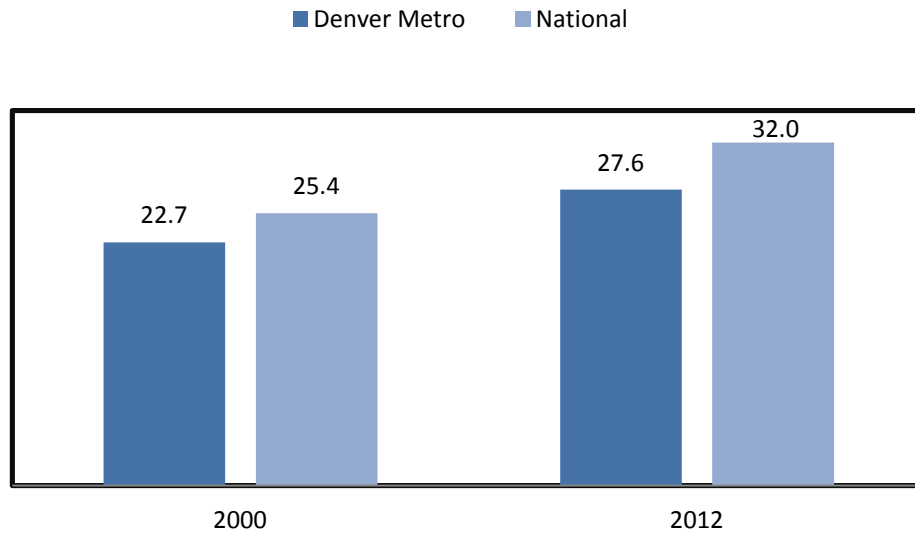
Source: Denver Metro Area Apartment
Vacancy & Rent Survey October 2014

**A 7% price hike &
Vacancies dropped to 3.9%**



Percent of Working Adults Living with Roommate or Adult Family Member

Source: Denver Post 11/3/14- Zillow Reports



Working Households with Severe Housing Cost Burden (2012)

City*	Percent of Households with Severe Housing Cost Burden
Orlando, FL	31.5%
San Francisco, CA	29.2%
Austin, TX	23.0%
Portland, OR	21.5%
Seattle, WA	20.4%
Washington, D.C.	19.9%
Denver, CO	19.2%
Baltimore, MD	18.6%
Minneapolis, MN	14.8%

Source: Center for Housing Policy

*Cost burden calculated for the surrounding metro area

Source: *Denver Performance Audit Report*

VIII. Enforcement and Protection of Visitors/Tourists/People

A. In a perfect world, it could be argued that legalizing STRs would be the answer. Unfortunately, current rules forbidding STRs have proven to be unenforceable.



A. Underground Market for Short-Term Rental Units

- Those owners refusing to register or license their rental units will simply go underground in order to prevent detection.¹⁷

B. Protection of Denver's Visitors and People

- Lenders and insurers for properties must be included as stakeholders to ensure loan and insurance documents are complied with.
- Underwriting and pricing for residential, apartment buildings and hotel/motel operations are very different. All aspects of building security including running a business that requires customers to enter the premises would have to be underwritten with appropriate changes and charges on the policies.
- Homeowners insurance does not cover short-term rental damages.
- Lack of premises health and safety inspections endangers visitors and tourists.
- Background checks of owners and associated personnel would not be available
- Hotels and motels are bonded and insured for protecting our tourists and visitors; underground and illegal STRs do not provide such protections.

C. Honest Reviews Must Be Made Available For Public Viewing

- If restaurants are inspected and reviewed then it is even more important for rental reviews to be made available for public viewing.

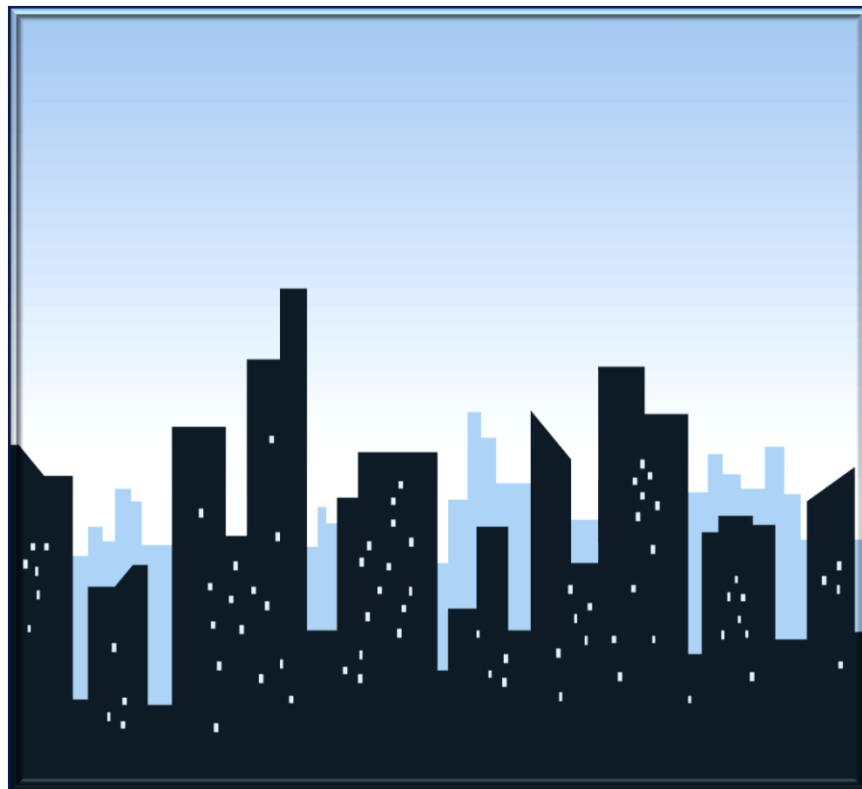


D. Denver now has an estimated 1,000 STRs operating in violation of the Denver Zoning Code.¹⁸ Any change to allow STRs will likely bring a total of STRs in Denver to 10,000 or even

20,000 or more. How many of these will be in violation of what change might be made to our zoning code? How will Denver's Neighborhood Inspection Services possibly be able to monitor a greater number than they currently cannot monitor, particularly when other cities have been unable to do so?¹⁹

IX. Conclusion

BOTTOM LINE: Turning neighborhoods into areas for motels and hotels destroys the integrity of the neighborhood and, more importantly, the expectations of the property owners who purchased the property with the intention of a neighborhood remaining a residential neighborhood. This is a city we call home. Is City Council propounding legislation that benefits a few residents and "shared economy" entrepreneurs/opportunists at the expense, both monetary and in terms of quality of life, of most Denver residents? We hope not.



ENDNOTES:

¹ See Nate Hutcheson, “Short-Term Vacation Rentals: Residential or Commercial Use?”, *Zoning News* (March 2002, American Planning Association); *Short-Term Rental Housing Restrictions*, Robinson & Cole, 2011.

² HomeAway, filed suit on Monday, November 3, 2014, against San Francisco, alleging the city’s new law signed by Mayor Ed Lee to regulate short-term rentals in private homes unfairly benefits hometown company Airbnb at the expense of HomeAway and other rivals. Source: *SFGATE*, November 3, 2014.

³ See, Airbnb runs on a market place platform model where it connects hosts and travelers and enables transactions without owning any rooms itself. Unlike traditional hotels, Airbnb scales not by scaling inventory but by increasing the hosts and travelers and matching them with each other. Source: Choudary, Allen. “The Airbnb Advantage”. *The Next Web*; Choudary, Sangeet “A Platform Thinking Approach to Innovation, (21 January 2014) *Wired*.

⁴ Don’t hand San Francisco Over to Airbnb, *San Francisco Chronicle*, opinion by Senator Dianne Feinstein, October 20, 2014, urging Mayor Lee to veto the legislation approved by the Board of Supervisors, stressing “This home-sharing legislation blurs those lines and provides for residential housing to be leased out for hotel use. As such, those of us who value the residential character of our neighborhoods and are invested in the city’s quality of life will see all of this washed away by a blanket commercialization of our neighborhoods....further increasing the cost of living.”

⁵ The 2010 Denver Zoning Code was unanimously adopted by City Council on June 21, 2010 and became effective June 25, 2010.

⁶ Denver Zoning Code, *supra*.

⁷ See generally, *Zoning News*, *supra*; *San Francisco Chronicle*, October 20, 2014, *supra*.

⁸ Article 2, Division 2.2, Section 2.2.1 Context-Based Approach, Denver Zoning Code.

⁹ See “At Colorado’s borders, a dividing line over marijuana – Pot on the prairie: boon for Colorado, bane for neighbors., *The Washington Post*, July 26, 2014 (Sheriff Mark Overman commenting that in Scotts Bluff County, Nebraska, Colorado is exporting trouble to its neighbors. “They’re promoting marijuana tourism. “The message is come to Colorado, smoke the marijuana, then people bring some home.”

¹⁰ Education Life, “Higher Times” *New York Times*, November 2, 2014

¹¹ The federal government defines housing as affordable when housing costs such as mortgage, rent, and utilities do not consume more than 30 percent of household income. U.S. Department of Housing and Urban Development (HUD). Website accessed September 29, 2014, http://www.huduser.org/portal/glossary/glossary_all.html.

¹² The War Over Airbnb in New York Gets Personal – “The Dumbest Person in Your Building is Passing Out Keys to Your Front Door!”, *New York Magazine*, September 23, 2014; In NYC Jason Benjamin, Metropolitan Council on Housing states: “Airbnb’s ad campaign is sneaky, and sneaky good. In reality, Benjamin says, property owners all over the city, having realized that they can make more money on short-term rentals, have begun converting apartments into full-time Airbnb properties, resulting in their being taken off the market for full-time tenants and the further depletion of the already limited stock of affordable or even relatively affordable housing.” *New York Magazine*, *supra*.

¹³ The War Over Airbnb in New Gets Personal, *supra*.

¹⁴ Senior Class, *The Denver Post*, November 23, 2014, “Housing developers that cater to growing number of those growing in age try to keep up with demand for affordable housing.”

¹⁵ The Role of Affordable Housing in Creating Jobs and Stimulating Local Economic Development: A Review of the Literature,” Center for Housing Policy, accessed November 21, 2014.

¹⁶ Lack of affordable housing could limit economic development and boost metro traffic congestion, concluding that the audit from the city auditor finds that a shortage of an estimated 26,300 affordable housing units in Denver could lead to a host of issues, including household budgeting woes, problems with educational achievement by children, traffic congestion, and difficulties attracting trained workers and relocating businesses. *The Denver Post*, Business, November 21, 2014.

¹⁷ See, for example, Portland, Oregon, Short-Term Rental Ordinance, adopted in July 2014. The ordinance only provides for short-term rentals in single family dwellings. (by May 2014, Airbnb’s website listed 1,600 options in Portland). As of November 24, 2014, of the 1,600 options only 30 hosts had applied for a permit.

¹⁸ Denver City Council Sharing Economy Task Force Meeting Summary, Monday, August 25, 2014.

¹⁹ See, for example, Portland, Oregon, 1,600 STRs on Airbnb web-site, only 30 hosts applied for permits pursuant to the Portland Ordinance; ballot initiative is being prepared for 2015 to bring the Airbnb issues to voters in San Francisco, *City Insider*, October 27, 2014; in late 2013, Office of New York State Attorney General (NYAG)

launched an investigation of web platforms like Airbnb who run large-scale enterprises in violation of fire safety, zoning, tax and other applicable laws. On May 14, 2014, NYAG served Airbnb with a subpoena for detailed information about rental transactions on its platform, *Report of the New York State Attorney General*, October 2014; DeBlasio administration files first lawsuit against apartments operating as illegal hotels through sites like Airbnb, *New York Daily News*, October 17, 2014.

Appendix:

The median income of adults in doubled-up households in the U.S. has risen over time, from a median of \$24,000 in 2000 to \$29,000 in 2012¹, but people in doubled-up households have incomes that, increasingly, lag behind median incomes overall. On average, doubled-up adults make 76 percent of the median income of people without roommates, which means it can take longer to save up for a down payment or deposit on a place of their own. ZILLOW

Metro Area	Share of adults doubled up households, 2000	Share of adults in doubled up households, 2012	Median Individual Income of Employed Adults Living in a Doubled Up Household, 2000	Median Individual Income of Employed Adults Living in a Doubled Up Household, 2012	Number of households gained if average number of adults per household returned to 2000 levels
United States	25.4%	32.0%	\$24,000	\$29,000	5,405,509
New York	37.3%	42.4%	\$28,070	\$35,000	300,666
Los Angeles	41.2%	47.9%	\$22,000	\$27,000	315,473
Chicago	30.9%	35.5%	\$26,300	\$30,000	138,728
Dallas-Fort Worth	25.2%	30.7%	\$22,800	\$28,000	131,555
Philadelphia	27.9%	35.2%	\$28,000	\$34,000	114,931
Washington	30.0%	36.6%	\$30,000	\$37,000	144,116
Miami-Fort Lauderdale	34.7%	44.5%	\$22,000	\$25,000	232,895
Atlanta	28.4%	33.3%	\$25,000	\$27,000	93,690
Boston	29.0%	33.4%	\$30,000	\$37,000	56,699
San Francisco	35.9%	39.2%	\$30,000	\$35,000	84,759
Detroit	26.4%	32.6%	\$27,000	\$30,000	55,039
Riverside	31.7%	44.7%	\$22,000	\$28,100	162,474
Phoenix	26.6%	32.9%	\$23,900	\$29,100	75,197
Seattle	22.5%	29.3%	\$28,000	\$32,000	80,078
Minneapolis-St Paul	19.1%	24.6%	\$28,000	\$30,010	46,913
San Diego	32.2%	39.7%	\$24,000	\$29,500	89,778
St. Louis	21.4%	27.5%	\$24,800	\$28,900	35,085
Tampa	22.8%	32.1%	\$22,500	\$27,600	78,387
Baltimore	27.4%	34.5%	\$28,000	\$36,000	47,164
Denver	22.7%	27.6%	\$25,200	\$30,000	43,548
Pittsburgh	22.7%	25.1%	\$23,400	\$31,000	11,764
Portland	22.3%	29.4%	\$24,000	\$30,000	46,134
Sacramento	25.3%	34.3%	\$25,000	\$30,000	54,313
Orlando	26.5%	36.3%	\$22,600	\$25,000	79,832
Cincinnati	19.0%	26.5%	\$25,000	\$29,000	41,794
Cleveland	24.1%	28.5%	\$25,200	\$30,000	7,682
Kansas City	19.5%	24.6%	\$25,000	\$30,000	32,875
Las Vegas	31.3%	38.9%	\$24,000	\$30,000	39,282
San Jose	39.6%	39.4%	\$31,000	\$37,500	16,276
Columbus	19.1%	25.8%	\$25,000	\$28,100	45,577
Charlotte	23.4%	29.3%	\$23,300	\$26,000	26,332
Indianapolis	18.9%	26.1%	\$25,000	\$29,000	31,196