



NEW YORK STATE SENATOR

Liz Krueger

Statement on Judge Connolly's Decision in Airbnb Subpoena Litigation

LIZ KRUEGER May 12, 2014

| ISSUE: **HOUSING, RECREATION AND TOURISM**

Sen. Krueger issued the following statement on Acting Supreme Court Justice Gerald Connolly's decision in the litigation between the Attorney General and Airbnb:

"Today's decision gives Airbnb a little time, but it looks like that's all it gives them. Judge Connolly ruled for the Attorney General on every substantive point, save a technical issue with the breadth of the subpoena. I'm no lawyer, but this looks like the definition of a pyrrhic victory for Airbnb."

Background:

In an 11-page decision, Acting Supreme Court Justice Gerald Connolly ruled that every objection Airbnb raised to the Attorney General's subpoena except one was either without merit or not ripe for consideration. He wrote:

- "Based upon the facts as alleged in the record before the Court, [Airbnb's] assertions that a factual predicate has not been established are without merit..." (Pg. 7)
- "[Airbnb] has failed to demonstrate that the subpoena is unduly burdensome." (Pg. 9)

- "Based upon the record, any arguments concerning the constitutional vagueness of statutes...are not ripe for review." (Pg. 10)
- "Initially, [Airbnb] has failed to demonstrate that the requested information is confidential, particularly where [Airbnb's] privacy policy provides that petitioner will disclose any information in its sole discretion that it believes is necessary to respond to, inter alia, subpoenas." (Pg. 10)
- "...[Airbnb] has failed to demonstrate adequate legal authority to preclude [the Attorney General's] request for tax related communications [Airbnb] has had with its Hosts..." (Pg. 10)
- "...[Airbnb] has failed to demonstrate that such subpoena is requesting the disclosure of a Host's tax returns nor that petitioner is in possession of such information." (Pg. 11)

Judge Connolly ruled the Attorney General's subpoena could be quashed on a technical issue -- it requested data on too broad a set of Airbnb hosts. But the *Washington Post* is already reporting that the Attorney General is expected to issue a new, edited subpoena that will comply with the Court's ruling. And the Court has already ruled against Airbnb on its other arguments.

Sen. Krueger represents the 28th Senate District, which includes Manhattan's Upper East Side and East Midtown communities. A veteran member of the New York State Senate's Democratic Conference, she serves as ranking Democratic member on the Senate Finance Committee.

Sen. Krueger was the Senate sponsor of Chapter 225 of the Laws of 2010, the "Illegal Hotel Law," which made technical changes to the Multiple Dwelling Law and the New York City Administrative Code to allow city agencies to pursue enforcement action against illegal short-term rentals.