

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 6-23: HOUSING – SHARING ECONOMY RENTAL

SUMMARY

The Office of Legislative Oversight (OLO) finds the racial equity and social justice (RESJ) impact of Bill 6-23 is indeterminant.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF BILL 6-23

The Sharing Economy (SE) has many definitions and remains contested. Nevertheless, SE is commonly understood as an economic model based on the exchange of underused goods or services, for a fee or for free, between individuals and entities, typically by means of the Internet.³ Well-known SE platforms include Airbnb and Uber.

Bill 6-23 is intended to address SE activity in the County, specifically, constituents renting their private property on an hourly basis through online platforms. Under current law, this commercial activity is not allowed in the County. The goal of the Bill is to authorize and regulate the hourly rental of private property by establishing a regulatory framework for license applications, renewals, suspension, and revocation for these rentals. Bill 6-23 proposes the following changes to County law:

- Defining the scope of law to Sharing Economy Rental—that is, “the rental of any portion of a dwelling or the property on which it sits for a fee where both property and the dwelling are privately-owned by the same person or entity and where the rental period is less than 12 continuous hours;”
- Requiring persons to attain a license issued by the Department of Health and Human Services (DHHS) to operate a Sharing Economy Rental;
- Establishing the certifications required for license applications and renewals by applicants;
- Establishing the fee, inspection, and other conditions the County must meet to approve and renew licenses; and
- Outlining the conditions and processes for (a) a challenge to any required certification, (b) any license suspension, revocation, or appeal, and (c) investigating complaints.⁴

Bill 6-23, Housing – Sharing Economy Rental, was introduced by the Council on January 31, 2023 with companion Zoning Text Amendment (ZTA) 23-01, Accessory Residential Uses – Sharing Economy Rental.

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THE SHARING ECONOMY AND RACIAL EQUITY

Deeply embedded structural racism in American society inherently drives racial bias within and across societal institutions. Thus, while the SE is a relatively new concept, it has also been characterized by racial inequities and disparities. SE platforms have increased access to an array of useful goods and services. However, research suggests that benefits of the SE are not equitably distributed. Researchers at Boston College note national studies from the JPMorgan Chase & Co. Institute and the Pew Research Center finding that SE platform users tend to be “whiter, younger, better-educated, and have higher income than the general population.”⁵ Additionally:

- A field experiment of Airbnb by researchers found “that applications from guests with distinctively African American names [were] 16 percent less likely to be accepted relative to identical guests with distinctively white names.”⁶ A recent internal study by Airbnb confirmed racial discrimination, finding that guests who were perceived as Black were able to book their desired rental 91.4 percent of the time, compared to 94.1 percent for guests who are perceived as White.⁷
- A study of 335,000 Airbnb listings in the ten largest Airbnb markets in the U.S. found that areas with higher concentrations of non-White residents “[charged] lower nightly prices, [had] lower annual revenues, and [received] lower ratings from guests.”⁸ Further, a study of over 100,000 Airbnb listings across 14 countries, including the U.S., found evidence that “consumers show a preference for White hosts, which allows White hosts to charge higher prices.”⁹
- A study of nearly 1,000 Uber and Lyft rides in Boston found that “Uber drivers were twice as likely to cancel an accepted ride when travelers [had an] African American sounding name.”¹⁰
- A study of 100 million ride-sharing samples from Chicago found that “[n]eighborhoods with larger non-white populations, higher poverty levels, younger residents, and high education levels [were] significantly associated with higher fare prices.”¹¹

Concerns have also been raised around the role of SE platforms in perpetuating broader employment and housing inequities. Advocacy groups have argued that, through misclassifying drivers as independent contractors and denying employee benefits and protections, Uber and Lyft uniquely harm workers of color, who are overrepresented in their driver workforce.¹² A study of Airbnb listings throughout the U.S. found that Airbnb leads to higher rents and decreases the supply of long-term rental units.¹³ This effect would disproportionately harm BIPOC renters as they are cost burdened at higher levels than White renters.¹⁴

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 6-23 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

For the first question, OLO identified several stakeholders that would be impacted by this Bill:

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- **Homeowners** would benefit from having the option to establish a new income stream through Sharing Economy Rentals, though they would bear some costs from licensing requirements and fees. Homeowners in the County are more likely to be White or Asian (refer to Table 1 in Appendix), and research from Airbnb suggests BIPOC homeowners who participate could have lower revenues than White homeowners.¹⁵ At the same time, it is unclear whether Sharing Economy Rentals could be a more attractive income-generating opportunity for BIPOC homeowners, considering they are cost burdened at higher levels than White homeowners (refer to Table 2 in Appendix).
- **Constituents using Sharing Economy Rentals** would benefit from having access to more amenities in the community, such as private swimming pools, though they may face higher prices with the regulation. Based on research from other SE platforms noted in the previous section, Sharing Economy Rental users may be disproportionately White and BIPOC users may experience discrimination. At the same time, it is unclear whether Black and Latinx users could particularly benefit from increased access to private amenities, given they are overrepresented among renter households in the County (refer to Table 3 in Appendix).
- **Constituents living near Sharing Economy Rentals** could experience inconveniences from increased activity in their neighborhoods related to Sharing Economy Rentals. These issues could be mitigated by the Bill's regulation requirements, but it is unclear to what extent.
- **County constituents at large** would benefit from increased revenues for the County generated by the admissions and amusement tax on Sharing Economy Rentals.

For the second question, OLO considered how this Bill could address racial inequities that could emerge from Sharing Economy Rentals, such as price discrimination against BIPOC homeowners and racial discrimination against BIPOC users. While this Bill does not address potential racial inequities, OLO could find no precedent of local jurisdictions establishing and enforcing antidiscrimination laws on SE platforms. A 2016 article from the Guardian considers the legal ambiguity around enforcing federal antidiscrimination laws on Airbnb.¹⁶

Taken together, many factors remain unclear with the establishment of Sharing Economy Rentals, including potential racial discrimination that could emerge on platforms and whether there could be a particular benefit to BIPOC homeowners from this new income-generating opportunity or to BIPOC users from increased access to private amenities. Thus, OLO finds the RESJ impact of Bill 6-23 is indeterminant.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.¹⁷ OLO finds the RESJ impact of Bill 6-23 is indeterminant. As such, OLO does not offer recommended amendments.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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APPENDIX

Table 1: Homeownership Rate by Race and Ethnicity, Montgomery County¹⁸

Race and Ethnicity	Homeownership Rate
Asian	69.1
Black	43.3
White	77.1
Latinx	54.3

Source: Table S0201, 2021 American Community Survey 1-Year Estimates, Census Bureau.

Table 2: Cost Burden Rate of Homeowners by Race and Ethnicity, Montgomery County

Race and Ethnicity	Homeowner Cost Burden Rate
Asian	30.1
Black	28.1
White	22.1
Latinx	31.8

Source: Table S0201, 2021 American Community Survey 1-Year Estimates, Census Bureau.

Table 3: Percent of All Households and Renter Households by Race and Ethnicity, Montgomery County

Race and Ethnicity	Percent of County Households	Percent of Renter Households
Asian	14.3	11.8
Black	17.7	30.3
Native American	0.3	0.2
White	57.3	43.0
Latinx	13.9	18.6

Source: Table S2502, 2021 American Community Survey 5-Year Estimates, Census Bureau.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid

³ Ahmed Abdul Hadi Haqqani, et al, “Sharing Economy: A Systematic Review of Definitions, Drivers, Applications, Industry Status and Business Models,” IFAC, June 2022.

https://www.sciencedirect.com/science/article/pii/S2405896322017311?ref=cra_js_challenge&fr=RR-1

⁴ Introduction Staff Report for Bill 6-23, Housing – Sharing Economy Rental, Montgomery County Council, Introduced January 31, 2023. https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230131/20230131_4D-6.pdf

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⁵ Mehmet Cansoy and Juliet B. Schor, “Who Gets to Share in the ‘Sharing Economy’? Racial Inequities on Airbnb.” Boston College Sociology Department, 2016.

<https://www.bc.edu/content/dam/bc1/schools/mcas/sociology/pdf/Who%20gets%20to%20share%20in%20the%20sharing%20economy.pdf>

⁶ Benjamin Edelman, et al, “Racial Discrimination in the Sharing Economy: Evidence from a Field Experiment,” American Economic Journal: Applied Economics. April 2017. <https://www.aeaweb.org/articles?id=10.1257/app.20160213>

⁷ Sara Clemence, “Black Travelers Say Home-Share Hosts Discriminate, and a New Airbnb Report Agrees,” The New York Times, December 13, 2022. <https://www.nytimes.com/2022/12/13/travel/vacation-rentals-racism.html>

⁸ Cansoy and Schor

⁹ Bastian Jaeger and Willem W. A. Sleegers, “Racial Disparities in the Sharing Economy: Evidence from More than 100,000 Airbnb Hosts across 14 Countries,” Journal of The Association of Consumer Research, January 18, 2023.

<https://www.journals.uchicago.edu/doi/abs/10.1086/722700?journalCode=jacr>

¹⁰ Yanbo Ge, et al, “Racial Discrimination in Transportation Network Companies,” Journal of Public Economics, October 2020.

<https://www.sciencedirect.com/science/article/pii/S0047272720300694>

¹¹ Akshat Pandey and Aylin Caliskan, “Disparate Impact of Artificial Intelligence Bias in Ridehailing Economy’s Price Discrimination Algorithms,” AAAI/ACM Conference on Artificial Intelligence, Ethics, and Society, May 2021. <https://arxiv.org/abs/2006.04599>

¹² Edward Ongweso Jr, “Civil Rights Groups Say Uber Actively Hurts Black People,” Vice News, September 23, 2020.

<https://www.vice.com/en/article/7kpn9z/civil-rights-groups-say-uber-actively-hurts-black-people>

¹³ Kyle Barron, et al, “The Effect of Home-Sharing on House Prices and Rents: Evidence from Airbnb,” SSRN, March 4, 2020.

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3006832

¹⁴ RESJ Impact Statement for Expedited Bill 22-22, Office of Legislative Oversight, Montgomery County, Maryland, July 29, 2022.

<https://montgomerycountymd.gov/OLO/Resources/Files/resjis/2022/BillE22-22.pdf>

¹⁵ Cansoy and Schor

¹⁶ Julia Carrie Wong, “Airbnb: How U.S Civil Rights Laws All Racial Discrimination on the Site,” The Guardian, May 6, 2016.

<https://www.theguardian.com/technology/2016/may/06/airbnb-racism-civil-rights-laws-sharing-economy>

¹⁷ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

¹⁸ Latinx is an ethnicity rather than a race; therefore, Latinx people are included in multiple racial groups throughout this impact statement unless where otherwise noted. Estimates for Native American and Pacific Islander constituents not available for all data points presented in impact statement.