

August 15, 2019 Publication

Topics

Transportation

Related People

Lisa D. Poplawski
poplawskil@lanepowell.com

Joseph D. Adamson
adamsonj@lanepowell.com

Related Practices & Industries

Transportation

‘Airbnb for Your Car’ Faces Similar Barriers as Airbnb

Transportation Legal Update

Turo is a peer-to-peer car-sharing service sometimes referred to as “Airbnb for your car.” Just as Airbnb allows homeowners and tenants to rent out their homes or apartments to guests, Turo allows car owners to rent out their vehicles. Turo says that their service “revolutionizes short-term car use” by allowing car owners to turn idle cars into an income source, and providing its renters, or “guests,” with a wide selection of privately-owned cars with a superior user experience to previously-existing short-term car rental sources like traditional car rental (Avis, Hertz, Enterprise, etc.) or member programs like Zipcar.

But Turo is facing challenges similar to those that Airbnb has faced in many jurisdictions, in particular licensing or other restrictions by local regulators. Turo has argued that these restrictions are imposed at the behest of large national car rental companies—much like hotel operators have argued that Airbnb’s business model amounted to operating illegal hotels in many cities. In general, Turo’s arguments attempt to distinguish its product, which seeks to connect car owners with drivers seeking to rent a car on a short-term basis, from traditional car rental companies, which own fleets of cars and rent them out to drivers. In many cities, Turo has gone on the offensive to seek relief from permit restrictions or the imposition of fees on either Turo or its users that could restrict its business model. These conflicts are especially prevalent at airports, where Turo faces pressure from car rental companies that have invested heavily in establishing a major presence for travelers.

Airports Seek to Treat Turo Like Traditional Car Rental Companies

Turo has two high-profile cases pending around access to two of California's busiest airports. The San Francisco City Attorney filed a lawsuit in state court against Turo in January 2018, alleging that Turo operates a rental car business at San Francisco International Airport (SFO) without a valid permit.^[1] Turo countered with its own cross-complaint in February 2018. Turo also filed a lawsuit in federal district court against the City of Los Angeles, seeking declaratory judgment and injunctive relief against the imposition of taxes and fees that would equate Turo with a traditional car rental company operating at Los Angeles International Airport (LAX).^[2]

San Francisco's arguments are based primarily around Turo advertising itself as a car rental company, but not paying fees or operating under the same rules that more traditional car rental companies do. For example, SFO says that all car rental companies have agreed to operate out of the Car Rental Center located away from the airport terminals, which cuts down on traffic congestion at airport terminals. Even rental companies located offsite are required to pick up customers at the Car Rental Center. SFO also argues that fees paid by on-site car rental companies—which account for 11.5% of SFO's operating budget—help to pay for SFO's operations, including the maintenance of its roadways. SFO alleged that Turo, by contrast, marketed itself as a car rental service and that its users could arrange for curbside pickup at the departures curb or at an airport cellphone lot. SFO alleged that Turo advertises and promotes rentals at airports, in which a car owner would meet a renter at a predetermined location, typically the departures curb or a cellphone lot, or the owner would leave the car in a parking area with the key in a lockbox accessible to the renter.

Turo's counter-complaint in the SFO case, like its similar complaint in the LAX case, argues that Turo is not a car rental company but a technology platform that connects car owners with those in need of short-term car rentals. It bases this argument in part on a change to California's Insurance Code, which was recently amended to recognize "personal vehicle sharing programs" distinct from rental car companies, and notes that Oregon and Washington have also enacted similar laws. It also argues that it does not create the same burden on airport infrastructure as car rental companies and that the fee structure imposed on car rental companies is disproportionate to the way that Turo is used at airports. Instead of paying the fees and taxes charged to car rental companies,

Turo argues it should pay fees closer to those paid by ride-sharing or taxi companies. For example, Turo argues that its users are on an airport's facilities for a similar amount of time as users of Uber or Lyft (comparing Turo's curbside exchange of keys with a ride-share's curb-side pickup or drop-off), but those services must pay only a \$3.80 fee per trip, while SFO seeks to impose a 10% gross receipts tax on Turo, which could amount to \$50 for a week-long, \$500 Turo rental. That tax, argues Turo, only makes sense for rental car companies that use SFO parking lots and other infrastructure. Turo's complaint against Los Angeles argues that LAX seeks to impose similar fees and taxes against Turo, though those fees are intended for the construction of a "Consolidated Rent-a-Car Facility" similar to SFO's Car Rental Center, which Turo likewise would not use. In both cases, Turo alleges that the airports have pursued these fees from Turo after lobbying by Enterprise Holdings and Hertz Global Holding, two of the largest car rental companies in the U.S. Those companies, for their part, argue that Turo should have to pay the same fees that rental companies are subject to, and they are just trying to level the playing field.

Turo is engaged in similar lawsuits related to Boston's Logan International Airport and the Tampa International Airport. In Tampa, a federal judge denied the Tampa airport authority's motion for a preliminary injunction banning Turo from operating at the airport.^[3] Enterprise Holdings has reported that Turo and other peer-to-peer car sharing companies have received cease-and-desist notices from at least 19 U.S. airports as of July 2019.^[4]

Turo's Platform May Face Restrictions in Some Locations Like Airbnb

Although many cities and states have recently wrangled with these legal and regulatory issues over ride-sharing platforms like Uber and Lyft, Turo's closest analog may be Airbnb and its fights against traditional hotel companies to allow homeowners or tenants to rent out their homes for short-term stays. Airbnb has fought a number of battles against allegations that owners are operating illegal hotels, rather than traditional rental or vacation homes or renting unused homes when the owners themselves are away. New York has been one of the most active cities policing rentals that violate the city's hotel laws. The issues facing Airbnb are related not only to pressure from traditional hotels lobbying officials to enforce laws to level the playing field, but are also related in part to concerns from city officials or residents about losing housing inventory to

Airbnb in an already-expensive housing market. Turo may not face the same arguments, though SFO's argument that Turo is increasing traffic at busy airports in congested cities may carry similar weight in a court or with regulators and legislators.

Turo's cases relating to SFO, LAX, Logan Airport, and the Tampa Airport are all ongoing. But Turo has stated in its legal filings that it is seeking to meet with airport executives to explore permitting regimes appropriate to what Turo believes its business model requires, but less burdensome than that required for traditional car rental companies that maintain their fleets on or near airports and tax airport infrastructure. Turo is also likely to increase its efforts to distinguish itself from car rental companies in state laws, like it has in California, Oregon, and Washington.

[1] *California v. Turo, Inc.*, Case No. CGC-18-563803 (County of San Francisco Superior Court).

[2] *Turo Inc. v. City of Los Angeles*, Case No. 18-cv-6055 (C.D. Cal.).

[3] *Hillsborough County Aviation Authority v. Turo, Inc.*, No. 19-cv-002677 (M.D. Fla.) Dkt. No. 97.

[4] <https://www.enterpriseholdings.com/en/press-archive/2019/07/new-peer-to-peer-car-rental-modernization-law-protecting-ohio-taxpayers-and-consumers.html>