

Maestri Towers, Sydney
Introduction

INQUIRY INTO THE REGULATION OF SHORT-TERM LETTING IN NSW

THE HONOURABLE JUSTICE J JAGOT : Fundamental Incompatibility (32 and 36) For these reasons I find that there is an (sic) fundamental incompatibility between a mix of residential and serviced apartments that share the same floor and access points... I do not accept that a management plan will provide an effective means of addressing potential amenity impacts that may occur on the site

Maestri Towers
presentation into
the Problems of
Short-term Lets in a
Residential Building

Dr Michael F Heaney

INTRODUCTION

There is only one building in NSW that won against the short-term lets that did a comprehensive quantitate and qualitative analysis/research of the impact that short-term accommodation had on a residential building - **Maestri Towers**. Other buildings like [REDACTED] are still under the control of the short-term letting cohort - it has not been possible to undertake any analysis of costs.

QUESTION: How could MAESTRI TOWERS afford to find \$200,000 plus for the expert witness reports, lawyers and Supreme Court case against short-term lets ?

ANSWER: We subsequently saved \$1.3 million of Owners Corporation funds by way of reduced expenditure when LEC Orders effectively halted 142 short-term lets.

Maestri Towers did Quantitative Research which generated **numerical data** or data that can be transformed into useable statistics. These reports have now been produced:

1. **Financial Forensic Report** - *How much did the serviced apartment operator make at the expense of Maestri Towers? **\$1 million profit a year!***
2. **Quantities Surveyor Report** – How much did addition gas, electricity, lift maintenance, air-conditioning, hydraulics etc cost the Owners Corporation at Maestri, due specifically to higher operating costs associated with short-term letting?

Reports were generated for:

i. **Utilities Assessment for:**

1. Electricity
2. Gas – air-conditioning
3. Gas – swimming pool

ii. **Maintenance Costs**

1. Air Conditioning
2. Lifts
3. Hydraulics
4. Electrical

iii. **MDF Room**

3. **Lift Specialist Report**, and

4. **Specialist Property Valuers Report** for Stolen Common Property

These reports are included in Maestri's Submission to Parliament.

Our **EVIDENCE** is backed by data and we can rely on its total **ACCURACY**. Our 6,000 pages are indisputable and can be peer reviewed.

THE PROBLEM: The Civil War between the Short-term Letting Company and Owners/Residential & Investors.

- Abuse of the DA by a multi-national company in operation short-term lets in a residential building
- Levies went up 70% in 4 years subsidising the short-term lets operation
- Short term letting in Maestri Towers was a form of commercial use or a quasi-hotel – it was **a for profit activity only.**
- Owners buying into a residential complex believed that they should enjoy some protection from such a fundamental change.
- Short Term Letting is a distinct category of accommodation (like hostels / boarding houses etc) that requires its own separate system of licensing & regulation in a Class 3 building.
- Investors and owners occupiers alike were stunned at the sharp increase in cost
- Strata roll hidden from owners to inspect because they were all under one company address – the short-term operator.
- Investors and owners occupiers alike were stunned at the increased cost and the support for the short-term lets started to dissipate from the short-term lets company.

THE SHOWDOWN and ABUSE: The Annual General Meeting 2012

-
- | Category | Value (approximate) |
|----------|---------------------|
| Blue | 95 |
| Black | 85 |
| Black | 75 |
| Black | 95 |
| Black | 40 |
| Black | 100 |
| Black | 100 |
| Black | 25 |
| Black | 80 |
| Black | 85 |
| Black | 90 |
| Black | 100 |
| Black | 10 |
| Black | 100 |
| Black | 100 |
| Black | 35 |
| Black | 100 |
| Black | 90 |
| Black | 100 |
| Black | 100 |
| Black | 10 |
| Black | 100 |
| Black | 100 |
| Black | 30 |

THE NEW BYLAWS OF MAESTRI TOWERS: ARE THEY LEGAL? – Good governance then emerged over the next 3 years and Maestri Towers reduced the overcrowding, the short-term lets from 142 to 0 and the writing of sound bylaws. This writing of a comprehensive set of bylaws would stabilise the building emotionally for all residents. The overcrowding was reduced by approximately 1,000 residents, the disguise of brothels in the form of residential apartments was totally diminished and the security issues which is the main problem in the city have now seen Maestri Towers the model strata high-rise envied by many other strata schemes in the city.

The most effective bylaws were:

1. SPECIAL BY-LAW NO 10 - OVERCROWDING AND SHORT TERM ACCOMMODATION – AMENDED

- Passed unanimously!

2. SPECIAL BY-LAW NO 11 – GREATER SECURITY SERVICES

- Passed unanimously!

3. SPECIAL BY-LAW 14: USE OF LOT (no brothels, massage parlours that provide sex services, houses of ill repute, sex aid vendors, drug referral centres, meeting places for drug or ex-drug users, and any other purpose which involves drug use or drug discussion groups, gaming and gambling establishments, vice parlours, or amusement centres)

- Passed unanimously!

4. SPECIAL BY-LAW 16: OCCUPANCY AND NUMBER OF SWIPE CARDS

- Passed unanimously!

5. SPECIAL BY-LAW NO 17: SIGNAGE ABOUT PARKING

- Investor Owners and Residential Owners need to have a definite assurance that the building they live in is residential. The definition of residential at the moment is undebatable but if we redefine residential as residents PLUS quasi hotels then you have Civil War like happened in Maestri Tower.

SUMMARY

Maestri Towers view is the same as that of OCN in that s.49(1) needs to be amended by the addition of words not unlike:

"PROVIDED THAT this section shall not apply to any by-law adopted to regulate the impact of short term letting of a lot on common property or the amenity of the scheme".

Again, the purpose of the above amendment is to enable owners in general meeting to exercise the democratic right to choose:

1. Whether their building will be used as a venue for short term letting; and if it is,
2. By what circumstances short term letting will be permitted within the scheme.

Enacting such an amendment enables the Parliament to "put the horse in front of the cart".

THE ATTACHMENTS

DOCUMENT 1

Land and Environment Court of Australia: A Fundamental Incompatibility

DOCUMENT 2

The Pain for Owners & the Pandora's Box for Government

DOCUMENT 3

Summary of 'Crime in High-Rise Buildings: Planning for Vertical Community Safety'

RESULTS

1. BUILDINGS WITH LONG-TERM RESIDENTS RECORDED THE LOWEST LEVELS OF CRIME.
2. BUILDINGS WITH SHORT-TERM TENANCIES (HOLIDAY APARTMENTS, HOTELS) HAD THE NEXT HIGHEST.
3. BUILDINGS WITH MIXED TENURE (BOTH LONG AND SHORT TERM TENANCIES) RECORDING THE HIGHEST LEVELS OF CRIME.

DOCUMENT 4

The Civil War between Airbnb and Residents: A Global Issue and soon to Erupt in NSW and Australia-Wide

ANNEXURE 1 - THE CURRENT DESPERATE STATE OF AIRBNB WITHIN OTHER JURISDICTIONS WORLDWIDE

- New York City (1)
- New York City (2)
- Austin, Texas
- City of Manhattan Beach
- Sacramento, California
- Vancouver - Canada
- Barcelona, Spain.

- [Berlin – Germany.](#)
- [Paris, France](#)
- [Vienna](#)
- [Dublin, Ireland](#)

[ANNEXURE 3 - ARTICLES ON AIRBNB](#)

[DOCUMENT 5](#)

1. [The Dysfunctionality: Non-compliance and misconduct of Strata Managing Agent \(SMA\)](#)
2. [Dysfunctionality: Non-compliance and misconduct of Caretakers/Building Managers](#)

[DOCUMENT 6](#)

1. The Voters Won't Forget
2. AirBnB Photos

Summary

LAND AND ENVIRONEMNT COURT OF NSW: A FUNDAMENTAL INCOMPATIBILITY

Fundamental Incompatibility (32 and 36) For these reasons I find that there is an (sic) fundamental incompatibility between a mix of residential and serviced apartments that share the same floor and access points... I do not accept that a management plan will provide an effective means of addressing potential amenity impacts that may occur on the site.

FUNDAMENTAL
INCOMPATABILITY:
JUSTICE J JAGOT
JUSTICE H MURRELL
JUSTICE J SHEAHAN
JUSTICE J PEPPER
JUSTICE C BROWN
REG.MARIA ANASTASIA

Table of Contents

“A FUNDAMENTAL INCOMPATIBILITY”	2
1 THE HONOURABLE JUSTICE J JAGOT:	2
2 THE HONOURABLE ACTING JUSTICE H G MURRELL:	3
3 THE HONOURABLE JUSTICE J SHEAHAN:	4
4 ASSISTANT REGISTRAR MARIA ANASTASI, NSW Land and Environment Court (In the matter of Bridgeport Apartments)	4
5 THE HONOURABLE JUSTICE J PEPPER – NSW Land and Environment Court	4
6 THE HONOURABLE JUSTICE C BROWN – NSW Land and Environment Court	5
ASSISTANT DIRECTOR FOR NSW FIRE SAFETY, GREG BUCKLEY:	6
PRINCIPAL POLICY OFFICER DEPARTMENT OF PREMIER AND CABINET - TOM KEARNEY	6
VARIATION OF STANDARDS: CLASS 2 OR CLASS 3	7
BUILDING CODES OF AUSTRALIA CLASSIFICATIONS	8

“A FUNDAMENTAL INCOMPATIBILITY”

The Parliamentary Committee is asked to heed the judgements of the
New South Wales Land and Environment Court
and acknowledges the first-hand experiences of many of many Owners Corporations:
There is a “**fundamental incompatibility**” and “**inherent conflict**”
with a mix of permanent residential occupancy and short-term letting.

1 THE HONOURABLE JUSTICE J JAGOT¹:

Fundamental Incompatibility (32 and 36)

For these reasons I find that there is an (sic) fundamental incompatibility between a mix of residential and serviced apartments that share the same floor and access points... I do not accept that a management plan will provide an effective means of addressing potential amenity impacts that may occur on the site.

(28) Mr Crane (for the applicant) finds the uses are compatible whereas the council comes to the opposite conclusion. The council officers report (Tab 9, Exhibit 1) makes the following comments:

There is a difference in the living and activity patterns and the behaviour of short and long-term residents, and the responsibility to resolve and control any conflict between the uses and occupants falls entirely upon the serviced apartment managing agency. Short term residents have no long-term interest in the maintenance of the amenity within the building or the surrounding area.

(29) *I accept the council’s position on compatibility between residential accommodation and serviced apartments. While both are residential in nature, the fact that they are separately defined in LEP 2005 would suggest that they have different characteristics. I agree that there is likely to be a difference in behaviour, living and activity patterns between short-term and long-term occupants. A conclusion that short-term occupants are likely to have less concern about maintaining of the amenity of the building than long-term occupants is a finding that can be reasonably made, in my opinion. That is not to say that all short-term occupants are likely to have less concern about maintaining the amenity of the building than long-term occupants but only that there is likely to be a greater proportion who use the building differently through their behaviour and activities in and around the building.*

(37) Clause 33 states that before consenting to development, a consent authority must have regard to the objectives of the zone. In accepting that the proposed development is consistent with objectives (a), (b), (c) and part (d), I am not satisfied that the proposed development adequately addresses part objective (d) in that appropriate amenity cannot be provided with a mix of residential and serviced apartments that share the same floor and access points. Consequently, I find the proposed development is unacceptable and the appeal should be dismissed. (THE HONOURABLE JUSTICE C BROWN²)

¹ [2006] NSWLEC 10576 <https://www.caselaw.nsw.gov.au/decision/549f99013004262463b0cb15>

² [2005] NSWLEC 315 <https://www.caselaw.nsw.gov.au/decision/549f852b3004262463ac24f0>

2 THE HONOURABLE ACTING JUSTICE H G MURRELL³:

Residential Amenity Contention (1)

The inherent conflicts associated with the proposed scale and mix of residential and serviced apartments, in particular, the co-location of apartments on the same building levels and using the same points of access, would result in unacceptable disturbances to longer term residents and diminution of the experience of serviced apartment guests, contrary to the City's goal of maintaining a high standard of amenity for residential apartments.

SEPP 65 (2):

As the application involves the substantial redevelopment of an existing residential apartment building, the provisions of SEPP 65 apply. The lack of separation of facilities for serviced apartment users and long-term residents and commercial tenants results in an unacceptable level of user conflicts and diminished safety and amenity within the building, contrary to SEPP 65.

Access to mixed use developments (3):

The proposal does not provide separate lift access and separate entrances between serviced apartment users and long-term residents, contrary to the DCP. The consequential impacts on safety and amenity are not acceptable.

Particulars (4):

(i) Clause 2.13.1 of the Central Sydney DCP provides that the consent authority should not consent to a mixed use development which includes two or more dwellings unless it is satisfied that separate lift access and a separate entrance will be provided for use exclusively for the dwellings.

Financial burden - building upgrades, repairs and maintenance (5):

The proposal will require extensive building upgrades for fire safety and for access for persons with a disability. The proposal will likely lead to a disproportionate financial burden on long-term residents, in terms of retrofitting the building, and as well, for operational repairs and maintenance.

Orderly development (6):

The proposal does not constitute orderly and high quality development of land.

Statutory Planning Framework:

The subject site is within the City Centre Zone under the Sydney Local Environmental Plan 2005. Clause 11 of the LEP contains the aims that include:

- To protect and enhance diversity;*
- To foster environmental economic social and physical wellbeing and;*
- To encourage orderly, sustainable and high quality development.*

In terms of the aims of the LEP...the proposed use is inconsistent with the aim to protect and enhance the amenity of residents, workers and visitors to the city.

³ [2011] NSWLEC 1054 <https://www.caselaw.nsw.gov.au/decision/54a6344b3004de94513d841a>

*On the contention that the proposal will result in an unacceptable level of user conflicts and diminished safety and amenity...(any) proposed change of use should be in accordance with the principles under **SEPP 65**, which is to plan by better design against security and safety risks posed by different user groups. (64)*

3 THE HONOURABLE JUSTICE J SHEAHAN⁴

Orders (54)

Accordingly, the court orders:

1. The respondent (by itself or its agent) is restrained from 1 January 2012 from using the premises situated at and known as 'Oaks Maestri Towers', 298-304 Sussex Street, Sydney NSW ('the Premises') for the purposes of 'serviced apartments' ('the said Purpose') unless and until development consent for such use is granted pursuant to the EPA Act and such consent is in force.

4 ASSISTANT REGISTRAR MARIA ANASTASI, NSW Land and Environment Court (In the matter of Bridgeport Apartments)

PENAL NOTICE – To: Australian Executive Apartments Pty Ltd the respondent named in the proceedings in which the Orders to which this Penal Notice is endorsed and [REDACTED] an officer of Australian Executive Apartments.

THIS PENAL NOTICE IS given in accordance with the Uniform Civil Procedure Rules 2005 (UCPR) part 40 division 2 rule 40.7.

TAKE NOTICE that the Order made by the Land and Environment Court on 27 March 2015 and entered (which bears this Penal Notice) will, if you disobey the order, render you liable to imprisonment or to sequestration of property in addition to liability for a fine in that:

If Australian Executive Apartments Pty fails to comply with Orders 1 to 4 above, [REDACTED] is liable to imprisonment or to sequestration of property and Australian Executive Apartments Pty Ltd is liable to sequestration of property.

5 THE HONOURABLE JUSTICE J PEPPER – NSW Land and Environment Court⁵

COMMISSIONER: This an appeal against the refusal by the Council of the City of Sydney (the council) of Development Application D2004/1402 **to convert 128 residential units into dual use residential/serviced apartments in part of an existing building at 187 Kent Street, Sydney** (the site).

⁴ [2011] NSWLEC 235 <https://www.caselaw.nsw.gov.au/decision/54a6364e3004de94513d91cc>

⁵ Dobrohotoff v Bennic [2013] NSWLEC 61 (2 May 2013)

<http://www.austlii.edu.au/cgibin/sinodisp/au/cases/nsw/NSWLEC/2013/61.html>

28 Mr Crane (for the applicant) finds the uses are compatible whereas the council comes to the opposite conclusion. The council officers report (Tab 9, Exhibit 1) makes the following comments:

There is a difference in the living and activity patterns and the behaviour of short and long-term residents, and the responsibility to resolve and control any conflict between the uses and occupants falls entirely upon the serviced apartment managing agency. Short term residents have no long-term interest in the maintenance of the amenity within the building or the surrounding area.

6 THE HONOURABLE JUSTICE C BROWN – NSW Land and Environment Court⁶

Renaldo Plus 3 Pty Limited v Hurstville City Council [2005] NSWLEC 315

37 Clause 33 states that before consenting to development, a consent authority must have regard to the objectives of the zone. In accepting that the proposed development is consistent with objectives (a), (b), (c) and part (d), I am not satisfied that the proposed development adequately addresses part objective (d) in that appropriate amenity cannot be provided with a mix of residential and serviced apartments that share the same floor and access points. Consequently, I find the proposed development is unacceptable and the appeal should be dismissed.

⁶ Renaldo Plus 3 Pty Limited v Hurstville City Council [2005] NSWLEC 315
<https://www.caselaw.nsw.gov.au/decision/549f852b3004262463ac24f0>

FIRE & RESCUE and SAFETY and AMENITY

ASSISTANT DIRECTOR FOR NSW FIRE SAFETY, GREG BUCKLEY:

Fire & Rescue:

The use of Residential Buildings for short-term Tourist/Visitor Accommodation an important and live issue.

This issue should come under close scrutiny, especially in light of the recent Coroner's Inquiry and Inquest into the death of Connie Zhang⁷ at Bankstown. Reference was made by the coroner of an illegal modification inside the Residential premises and subletting to students.

In the case of Illegal Short-Term Letting/Overcrowding, under current Legislation the NSW Fire Brigade does not have the right of entry to inspect Residential premises; unlike an irregular or illegal situation in a registered Backpacker or similar property.

PRINCIPAL POLICY OFFICER DEPARTMENT OF PREMIER AND CABINET - TOM KEARNEY⁸

Safety and Amenity:

Building work, whether exempt from or requiring development consent must be carried out in accordance with the Building Code of Australia (BCA).

If a dwelling or a part of a dwelling is used for short-term holiday accommodation development consent for a change of use may be required. In some circumstances, such as a change from a dwelling to tourist and visitor accommodation, this may result in a change of BCA classification of the building and there may be a need for the affected building to satisfy higher fire safety requirements than those that applied to the originally approved use of the premises.

Short-term holiday accommodation providers may not always comply with the relevant regulations (such as fire safety requirements and disability access)...

Issues such as fire safety, building security and noise associated with short-term letting are long-standing and predate the emergence of online platforms.

FIRE and SAFETY:

A similar but more worrying situation applies with respect to fire protection and compliance with the BCA. For example, older residential towers are not required to have sprinklers. How can it possibly be right that units in such buildings are accommodating visitors on Short-Term Lets? And of no less importance and concern, some older buildings were designed for fewer occupants than

⁷ 2012/00279934

<http://www.coroners.justice.nsw.gov.au/Documents/Zhang%20findings%2018%2009%2015%20FINAL.pdf>

⁸ Dept of Premier and Cabinet Submission

<http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/40C7EC26AA5AA861CA257F6500091FAF>

the number currently in residence, so one questions the adequacy of fire escapes in such properties.

Residential apartment buildings are not the only properties on which Councils serve fire safety orders. It is noted that details of such orders are not publicised. How then can Government and Councils allow short-term letting in a building subject to a fire order when often the Lot Owner, Letting Agent and Insurer might be unaware that a fire order has been served on the property?

Consideration of Recommendations made by NSW Fire & Safety:

Assistant Director for NSW Fire Safety, Greg Buckley, recently made mention of the fact that Queensland has for many years considered stepping outside the national standard Building Codes of Australia Class 2 classification with a proposal to introduce a Class 2a and Class 2b code in recognition of the different infrastructure needed by Tourists/Visitors as opposed to Residents familiar with their buildings.

Also expected is recognition by State Government of the different Fire Safety infrastructure required in buildings, or levels of multi-storied apartment buildings, used for short-term letting, with the necessary legislation drafted and implemented to adequately protect those residing temporarily in short-term apartments and permanent residents occupying separate levels of the same building.

LOCAL GOVERNMENT ACT⁹ and LOCAL GOVERNMENT (General) REGULATION¹⁰

Under the Act, Councils can make Orders requiring or prohibiting the doing of things to or on premises, carry out inspections, and set fees and penalties. The Regulation already contains standards for places of *shared accommodation*, so why not also standards for short-term accommodation?

VARIATION OF STANDARDS: CLASS 2 OR CLASS 3

“Serviced apartments are increasingly competing with hotels in the short-stay tourist accommodation market, but are classified differently within the BCA (Building Code of Australia) and are therefore subject to different standards, for example in relation to disabled access and fire safety. The Australian Building Codes Board should consider whether the current variation in standards is appropriate where the buildings are used for similar (especially tourist accommodation) purposes.”¹¹

⁹<http://www.legislation.nsw.gov.au/xref/inforce/?xref=Type%3Dact%20AND%20Year%3D1993%20AND%20no%3D30&nohits=y>

¹⁰http://www5.austlii.edu.au/au/legis/nsw/consol_reg/lgr2005328/

¹¹ Annual Review of Regulatory Burdens on Business: Business and Consumer Services – Research Report, Productivity Commission, August 2010, Chapter 5, Page 183

BUILDING CODES OF AUSTRALIA CLASSIFICATIONS

Further information

Classification Summary of Buildings and Structures defined in the Building Code of Australia

CLASSES OF BUILDING		
Class 1	Class 1a	A single dwelling being a detached house, or one or more attached dwellings, each being a building, separated by a <i>fire-resisting</i> wall, including a row house, terrace house, town house or villa unit.
	Class 1b	A boarding house, guest house, hostel or the like with a total area of all floors not exceeding 300m ² , and where not more than 12 reside, and is not located above or below another dwelling or another Class of building other than a private garage.
Class 2	A building containing 2 or more sole-occupancy units each being a separate dwelling.	
Class 3	A residential building, other than a Class 1 or 2 building, which is a common place of long term or transient living for a number of unrelated persons. <i>Example: boarding-house, hostel, backpackers accommodation or residential part of a hotel, motel, school or detention centre.</i>	
Class 4	A dwelling in a building that is Class 5, 6, 7, 8 or 9 if it is the only dwelling in the building.	
Class 5	An office building used for professional or commercial purposes, excluding buildings of Class 6, 7, 8 or 9.	
Class 6	A shop or other building for the sale of goods by retail or the supply of services direct to the public. <i>Example: café, restaurant, kiosk, hairdressers, showroom or service station.</i>	
Class 7	Class 7a	A building which is a carpark.
	Class 7b	A building which is for storage or display of goods or produce for sale by wholesale.
Class 8	A laboratory, or a building in which a handicraft or process for the production, assembling, altering, repairing, packing, finishing, or cleaning of goods or produce is carried on for trade, sale or gain.	
Class 9	A building of a public nature -	
	Class 9a	A health care building, including those parts of the building set aside as a laboratory.
	Class 9b	An assembly building, including a trade workshop, laboratory or the like, in a primary or secondary school, but excluding any other parts of the building that are of another class.
	Class 9c	An aged care building.
Class 10	A non habitable building or structure -	
	Class 10a	A private garage, carport, shed or the like.
	Class 10b	A structure being a fence, mast, antenna, retaining or free standing wall, swimming pool or the like.

TYPE OF CONSTRUCTION		
Rise in storeys	Class of building 2,3,9	Class of building 5,6,7,8
4 or More	A	A
3	A	B
2	B	C
1	C	C

Note: The classification of buildings and the type of construction can vary from the standard model depicted in the tables. Concessions can be provided that change the type of construction. The concessions can relate to the design of the building, its size, and the number of escapes.

THE PAIN FOR OWNERS & THE PANDORA'S BOX FOR GOVERNMENT OF SHORT-TERM LETTING IN MAESTRI TOWERS

Recent media reports state that the Minister for Innovation and Better Planning, Victor Dominello MP, will be seeking to alter New South Wales legislation to “*embrace the Collaborative Economy*”, i.e. changing legislation which will effectively create quasi hotels in properties that were designed for permanent residential accommodation.

We request that the Parliamentary Committee consider what we have to say about the impact of quasi hotels on residential buildings i.e. to listen to our side of the story.

Dr Michael F Heaney, Chairman

MAESTRI TOWERS - [REDACTED]

TABLE OF CONTENTS

No. 1 - A CASE STUDY: A DAVID AND GOLIATH BATTLE.....	2
A. SUMMARY OF THE ISSUES	2
B. A QUALITATIVE BREAKDOWN OF THE ISSUES AFFECTING A RESIDENTIAL BUILDING	3
1. RELIANT ON LOCAL COUNCIL.....	3
2. RELUCTANT COUNCILS.	3
3. LIMITED PUBLIC RESOURCES.	3
4. UNREALISTIC FOR OWNERS.	3
5. DEEP POCKETS.....	4
6. OPERATORS ARE SOPHISTICATED AND EXPERIENCED.	4
7. STARVE THEIR OPPOSITION	4
8. BREACHING THEIR POSITION OF TRUST.	4
9. MAINTAINING CONTROL	4
10. KICK-BACKS.	4
11. DISPERSION OF PROXIES	4
12. HESITANT TO USE LAWYERS.	5
13. MILLIONS OF DOLLARS.	5
THE PAIN OF LONG-TERM RESIDENTS	6
A PANDORA’S BOX FOR THE NSW GOVERNMENT.....	6
JUST THE “ACCEPTABLE COST OF DOING BUSINESS”	7
AIRBNB = THE QUASI-HOTEL QUESTIONS.....	8
SHORT-TERM STAY COMPANIES	13

No. 1 - A CASE STUDY: A DAVID AND GOLIATH BATTLE

MAESTRI TOWERS, A RESIDENTIAL BUILDING COMPRISING 384 APARTMENTS

VS

A MULTI NATIONAL COMPANY

A. SUMMARY OF THE ISSUES

A current example of the impact of the collaborative economy is the impact that services such as Uber have had on the Taxi industry. Companies like Airbnb, Stayz and Expedia pose a similar risk to the Hotel industry. Unlike the Uber experience it is not only the Hotel industry that is at risk. Companies like Airbnb create quasi hotels in residential buildings that were not zoned or built for that purpose and detrimentally affect the ordinary mum and dad residents and owners of lots in such buildings. Airbnb as a concept may work well in the suburbs but that's not where the demand is. The demand for such accommodation is centred in dense population areas such as the Sydney CBD and can result in the informal conversion of entire buildings into what is effectively a hotel without any regard to the consequences on the other owners as well as the impact on planning. There is already a chronic shortage of affordable residential accommodation in the CBD and the attractiveness of services such as Airbnb for investors will result in renters being forced out of the CBD as Airbnb customers offer a higher return. Also, unlike Uber where mainly Taxi operators are affected the Hotel industry represents a large network of interconnected industries where Airbnb will have a detrimental flow on effect on those industries. Hotels and serviced apartments are serviced by generally low income hospitality staff, by administrative staff, but cleaning companies, security companies, pest controllers, plumbers, electricians, agents, and other contractors. Airbnb not only cuts out the middle man but can also decimate entire industries that are reliant on the operation of legal hotels. This will put large numbers of people out of work and also reduce tax revenue. Any tax revenue collected from the operation of Airbnb will be substantially less than what is generated by the hotel industry. Without proper regulation the impact of the collaborative economy created by services such as Airbnb would be a net negative impact that outweighs the superficial attractiveness. The impacts are summarised as follows:

1. Councils approve the use of buildings depending on the need of the community. There are large numbers of properties in the CBD that are zoned for permanent residential accommodation only. That is to provide affordable living by maintaining a supply of permanent residential properties. Operations such as Airbnb render the development considerations of the Council meaningless which goes against the policy objective of maintaining supply. Airbnb operations would in fact reduce the available supply and make housing in the CBD even more unaffordable. The Council has no feedback on the Airbnb numbers and as such is unable to plan for the future.
2. Owners who buy properties, especially in the CBD, made investments, often in the millions, to buy property where they had a legitimate expectation that such property had development consent as a purely residential property. Such owners often have taken out substantial mortgages that they are expected to repay with interest. It is a fact that a building that has development approval for the operation of hotels or serviced apartments devalue the other residential lots in the building. The market value can be decreased by up to 30-40%. Valuers decrease the market value because hotels and serviced apartments have a detrimental impact on a buildings. If the government allows the operation of quasi hotels to take a foothold, such as Airbnb, then it will result in a devaluation of the investments of all those purchasers who purchased in good faith in the belief that they were buying a property that was zoned for permanent residential

accommodation. Such residents will be extremely unhappy with the government if Airbnb operators devalue their investments by 30-40% when their mortgages still have to be paid.

3. Airbnb like services create quasi hotels where the costs of the hotel are shared by the other ordinary owners. That's because a hotel or serviced apartment operation increases the use of common resources such as shared water expenses, lift wear and tear, energy consumption, as well as cleaning and maintenance expenses because holiday visitors want to enjoy their stay and maximise their use of the resources. Holiday makes also don't have a vested interest in maintaining the common property or reducing expenses. The net result is that all the owners in a strata plan have to chip in to pay for the additional costs generated by the Airbnb operator. In other words, the other owners end up subsidising the costs of running the Airbnb property.
4. With hotels and serviced apartments there is a security industry which services such properties to ensure the safety of residents. The security of a residential building differs. A residential building doesn't have the increased security and surveillance that would be typical of a hotel. The Airbnb operations affect the security of the buildings as there is a larger turnover of unknown occupants who also invite in other unknown occupants. Such residential buildings not only lose their sense of community which comes from knowing their neighbours but are also required to pay more money for security staff as guests are often noisy and disruptive.
5. The collaborative economy can be accommodated for moving forward by providing development consents which take into account the operation of such quasi hotels in the design of the buildings. That would mean that such buildings would be specifically purpose built to accommodate such use. The existing buildings are not purpose built for such quasi hotels nor can they be cheaply changed into quasi hotels. In fact, permitting quasi hotels is akin to allowing a hotel operation to start up without the development considerations that protect owners by having an analysis of the suitability of the residential property to accommodate a hotel, and by putting conditions on the operation of the hotel.
6. Owners of buildings already struggle to combat a single illegal hotel or serviced apartment operator. If quasi hotels were allowed then with Airbnb there will be multiple moving targets (being the operators) which effectively makes it too expensive and unworkable for Owners Corporations to take effective action against such operators. In other words, the collaborative economy will effectively be unregulated and undermine the entire existing planning system.

B. A QUALITATIVE BREAKDOWN OF THE ISSUES AFFECTING A RESIDENTIAL BUILDING

The breakdown of the problem is as follows:

1. **RELIANT ON LOCAL COUNCIL.** Strata schemes and owners are usually reliant on their Local Council spending public monies to commence legal action seeking compliance with the Development Consent on a building.
2. **RELUCTANT COUNCILS.** Councils are, understandably, reluctant to spend public monies and resources on litigation, which is a costly and time consuming exercise.
3. **LIMITED PUBLIC RESOURCES.** Councils 'pick and choose' where to spend limited public resources and that means many smaller complaints are usually not addressed, leaving owners with little-to-no recourse.
4. **UNREALISTIC FOR OWNERS.** It is unrealistic to expect individual Lot Owners in large, high-rise apartment buildings to take on sophisticated short-term letting operators with deep pockets. The COMPANY X group of companies are known to shop around for top tier law firms to represent them and a search of reported judgments show that they are *not* shy in litigating against complainants.

5. **DEEP POCKETS.** Large, commercial Short-Term Letting operators have deep pockets and can afford to pay top lawyers, barristers, experts, investigators, and to risk adverse Orders that they can afford to pay. The imbalance in power is extreme. Individual owners are just that: Individuals. They often cannot afford the time away from employment, or to fight or pay the costs associated with litigation, plus they are exposed to financially devastating adverse costs Orders if they are unsuccessful.
6. **OPERATORS ARE SOPHISTICATED AND EXPERIENCED.** They can organise their staff to do all the administrative work, collect proxies and phone owners while owners only have limited time & resources.
7. **STARVE THEIR OPPOSITION.** Given the **millions of dollars in profits** after tax made by COMPANY X, such operators can easily starve the finances of opponents and win protracted Court proceedings by attrition.
8. **BREACHING THEIR POSITION OF TRUST.** The commercial Short-Term Letting operators often get a beachhead into the common property by way of a Caretaker Agreement; that is what happened at Maestri Towers. They, and their related companies, then use their position of trust in the building to collect proxies. Owners who sign serviced apartment agreements with the Short-Term Letting operator will usually give their proxies readily to the operator. The same applies to Owners of apartments managed and let by way of Residential Tenancy Agreements by the same operator. The operators will have their representatives on the Executive Committees of an Owners Corporation or will have Owners with vested interests that are voted onto a Committee, using the large number of proxies held by the operators. The operators effectively have the numbers to out vote opponents. This makes it near impossible for Residential Owner/Occupiers to oppose any and all Illegal Operations taking place within their building.
9. **MAINTAINING CONTROL.** At Maestri Towers, the Short-Term Letting operator had the resources to do mail **outs**, hand out glossy brochures, door knock, approach Owners at the concierge desk, make misleading statements to Owners about those seeking *compliance with legislation*, thereby maintaining numbers to control the way in which the building functioned.
10. **KICK-BACKS.** The Owners Corporation suspects strongly that some short-term letting operators do renovations for Owners without charge and provide financial incentives for owners appointed to the Executive Committee to vote for them. It should be within the scope of Legislators to implement legislative reform which would see this practice stopped. The underlying aim should be – always – *compliance with Legislation*, which obviously extends to compliance with the development consent on a building.
11. **DISPERSION OF PROXIES.** The Strata Schemes Management Bill 2015 [NSW] at the date of this submission has passed both houses of Parliament and will become law sometime in July 2016 (the exact date is unknown as the framework and regulations are currently being worked on). Clause 26 (7) of Schedule 1 of the Bill limits the number of proxies that can be held by a person to no more than 5% of the total number of lots where the strata scheme has more than 20 lots. It is submitted that the 5% rule can only mitigate proxy farming to a certain extent as strata schemes have started to form ‘proxy panels’ where a clique of individuals would continue to proxy farm and ask that owners give proxies in such a way that each person has 5% of the total number of lots. At one general meeting of the Owners Corporation of Maestri Towers an employee of “**COMPANY X**” stated to the floor when her proxy was challenged that she was holding a proxy naming her personally and in her personal capacity and not in the capacity of an employee of the Caretaker or serviced apartment operator. The definition of ‘person’ would then be required to be tested in a Court or at NCAT to set a precedent which provides an additional litigation barrier. What if **10 employees each hold 5% of the proxies**? If that isn’t successful the operators often

have a significant number of agents and contractors who are on their side. The crucial element is that the operator will usually get the proxy of the owner of the serviced apartment if requested as they have aligned interests, there is an existing commercial relationship, the owner is an investor and doesn't want to be involved, and there is a relationship of trust. That is why the Caretaker and serviced apartment operator at Maestri Towers was able to farm so many proxies that they were able to vote in almost anything. The Owners Corporation believes that the same imbalance applies to [REDACTED] which is located [REDACTED] (please note that [REDACTED] does have Council consent for serviced apartments to be operated in that strata scheme). If the operator asks that the proxies be given to named contractors by providing a pre-filled form for the owner's convenience then the owner would very likely sign the form to grant the proxy. Would a panel of contractors affiliated with the operator be sufficient to constitute a single 'person'? Operators also have related entities. Some are subsidiaries, and others are horizontally aligned. Would proxy panels formed from those further removed people or entities circumvent the 5% rule? What if proxies were redirected to the actual owners of the serviced apartments so that each would hold 5%? Is it realistic to believe that such owners would vote against their own vested interests at a general meeting? It is submitted to the Committee that even though the intention of the 5% rule is sound it presents legal hurdles that can be used by serviced apartment operators with no shortage of legal resources to think of creative ways to undermine the rights of owners. What is important is to have an even playing field which is what the 5% rule is clearly attempting to achieve. However, it appears that the 5% rule alone will necessarily achieve that goal. A potential solution that will be proposed in these submissions is to put the burden on the operator to demonstrate that they are acting in accordance with development consents and that would remove the requirement for mum and dad owners to engage in a David versus Goliath battle.

12. **HESITANT TO USE LAWYERS.** Owners Corporations are not immune to the issues in the paragraph above. Owners are reluctant at general meetings to authorise spending under Section 80D of the SSMA (which will be Section 103 of the new Strata Schemes Management Bill 2015 [NSW]).
13. **MILLIONS OF DOLLARS.** Where the serviced apartment operator stands to make millions in dollars of after tax profits they have quite literally millions of reasons to fight.

THE PAIN OF LONG-TERM RESIDENTS

The conditions which make short-term letting agencies unacceptable in multi-residential properties:

1. *Short-term apartments devalues the residential properties by 30%*
2. *Devalues the property through excessive wear and tear*
3. *Increased repair and maintenance costs*
4. *Excess lift usage, eg peak hour demands on lifts at checkout times, resulting in increased maintenance costs and shorter working life of lifts, which are hugely costly to replace*
5. *Breach of building security/fire standards/safety protocols*
6. *Overcrowding, excused as 'residential' letting*
7. *Insurance risks for Class 2 buildings and Owners Corporation*
8. *Increases in strata insurance*
9. *Increased strata contents and Landlords' Insurance risk if short-term occupant is harmed – is OC liable for common property?*
10. *Undesirable use of short-term lets e.g. as brothels*
11. *Excessive noise eg late night parties, loud music*
12. *Dangers posed by drunken behaviour, disturbance of neighbours, damage to common property*
13. *Garbage disposal issues/ additional costs for owners*
14. *Excessive use of utilities, eg water, gas and power*
15. *Increased cleaning costs for 'serviced' short-term letting*
16. *Violation of by-laws eg illegal parking on common property and private car spaces, smoking; no possibility of enforcement by Owners Corporations*

A PANDORA'S BOX FOR THE NSW GOVERNMENT

'The NSW Government recognises that a key Challenge associated with new or emerging Business models relates to regulation.' *'The Collaborative Economy in NSW' – position paper, November 2015*

Problems facing Government in legislating for the 'Collaborative Economy' in relation to multi-residential housing may include:

1. *Where in New South Wales will areas be reserved for long-term residential living and community?*
2. *Loss of amenities through prohibitive replacement costs*
3. *Upgrading residential properties from Class 2 Residential to Class 3 Hotels*
4. *Compensation payable to residential owners for downgrading to hotel living*
5. *Compensation to owners for decrease in property values*
6. *Relocation of residents who do not wish to live in hotels or tourist camps*
7. *Accommodation of essential workers and housing affordability*
8. *Re-zoning of apartment buildings and free-standing residential properties as quasi hotels*
9. *Quasi hotels equates with devaluation of residential property*
10. *Residential tenancy backlash*
11. *Bylaws backlash*
12. *Upgrading of fire and safety provisions*
13. *Conflict between short-term tourists and residents, as is currently happening in all major cities throughout the world*
14. *Conflict between local government and residents over enforcement of development consents*
15. *State recognition of precedents set in residential case law decisions in the NSW Land and Environment Court*
16. *Increased demands upon NCAT to arbitrate and provide consistent corrective decisions*
17. *Multiplication of security and home protection issues*
18. *Inadequacy of insurance provisions from agencies such as Airbnb*
19. *Increased load for NSW Police and NSW Fire Brigades, due to residential community problems and serviced apartment problems*
20. *Problems affecting building, home and contents insurance in relation to short-term letting*
21. *How are local government planning issues to be integrated in this legislation?*
22. *Constitutional rights and class actions against the State Government re lost amenities, compensation and devaluation of property*

JUST THE “ACCEPTABLE COST OF DOING BUSINESS”

In the event that an owners corporation does reach the ‘claim stage’ within the courts, and if the short-term letting operator does lose and costs are awarded against them, considering the millions in profits made up until that stage, any amount paid by the operator is currently so small that all legal fees and charges can simply be written off as an ‘acceptable cost’ of doing business.

AIRBNB = THE QUASI-HOTEL QUESTIONS

NO. 1 RESIDENTIAL LIVING:

- 1.1 Is there a fundamental difference between permanent residential occupation and short-term tourist/visitor occupation?
- 1.2 Where in NSW will one live should one wish to live within a residential building/community?

NO. 2 AMENITIES:

- 2.1 The NSW Land and Environment Court has found that mixed use serviced apartments/residential occupation are fundamentally incompatible. How therefore can the disruptive and destructive impact of short-term tourist/visitor operations in residential properties be stopped?
- 2.2 How will apartment blocks be re-divided and residents/owners moved to ensure that residents only occupy certain levels and tourist/visitors only occupy other levels? How will the re-distribution of land and property be managed, and how will property owners be compensated by the Government?
- 2.3 Who will be responsible for paying to ensure that residents and tourists/visitors do not share the same entrance, lifts and common-property corridors?

NO. 3 UPGRADING RESIDENTIAL PROPERTIES (CLASS 2 Residential) TO (CLASS 3 Hotel) – BUILDING CODES OF AUSTRALIA:

- 3.1 Who will be responsible for the cost of upgrading every Class 2 residential property State-wide to a Class 3 building, assuming that major structural work will be necessary to meet building codes of Australia benchmarks, on fire dampers, sprinkler systems, disabled access, fire-stair requirements etc?
- 3.2 Who will be responsible for the cost of housing residential occupants during such an 'upgrade' process?
- 3.3 What will be the scenario should it be deemed financially unviable to undertake such an upgrade and how would owners be compensated - or would the Government, by default, deem such properties to be Residential Only?

NO. 4 COMPENSATION PAYABLE TO RESIDENTIAL OWNERS FOR HOTEL LIVING:

- 4.1 Will the State Government compensate every residential dweller (owner/tenant) who is forced to live in a quasi-hotel or in a neighbourhood emptied of residents and overrun with holiday makers, and who will be responsible for setting the level of compensation – the NSW Government, the NSW Supreme Court, or the NSW Land and Environment Court?
- 4.2 Will the State Government fund local councils, the Police and Fire Safety, and will they compensate owners corporations to fund the additional staff required to monitor buildings to combat overcrowding, illegal activity and anti-social behaviour, or will a change in Legislation see all such activity declared 'legal'?
- 4.3 Will the State Government compensate owners corporations and/or individual property owners for increased charges in water/electricity/gas consumption/lift repairs/maintenance/security upgrades/insurance costs etc. Will there be a limit on the level the State will compensate?

NO. 5 CLASS ACTION DUE TO LOSS OR DOWNGRADING OF 'OWNERSHIP OF RESIDENTIAL PROPERTIES:

- 5.1 Will residential property owners be entitled to take class action, claiming compensation from the State Government over taxes paid at the time of settlement on the purchase of all NSW residential property?
- 5.2 How far back will residential property owners be able to seek compensation for taxes paid – 7...10...20 years?

NO. 6 CLASS ACTION DUE TO LOSS OF AMENITIES:

- 6.1 Should residential property owners and tenants take class action in the NSW Land and Environment Court, similar to that of pastoralists attempting to protect their agricultural lands from Mining Companies, for loss of amenity?
- 6.2 Will NSW residents be able to take class action in the NSW Land and Environment Court, seeking financial relief plus court costs, as well as compensation for unrelenting disturbance, stress, anxiety, due to short-term letting; will there be a limit on the amount of compensation paid by the NSW Government to individuals and/or groups and will individuals/groups be dealt with separately and differently?

NO. 7 COMPENSATION FOR A DECREASE IN PROPERTY VALUES:

- 7.1 When residents find their living conditions and the value of their homes greatly diminished, plus their rights and protections downgraded, how would the Government address these issues - *with* compensation?
- 7.2 Will the State Government compensate residential property owners (and the hotel/accommodation sector) for every transaction involving the use of a residential property for the purposes of short-term tourist/visitors? (Reference the plan to compensate NSW Taxi Plate Licence Holders with a tax on Uber transactions.)
- 7.3 How would the State Government ensure the collection and re-distribution of compensation?

NO. 8 HOUSING OF RESIDENTS WHO DO NOT WISH TO LIVE IN HOTELS/TOURIST CAMPS:

- 8.1 Will any properties or residential suburbs be excluded from legislation permitting short-term tourist/visitor letting?
- 8.2 Will any areas be set aside exclusively for the use of those wanting to live in residential communities?

NO. 9 HOUSING OF ESSENTIAL WORKERS & AFFORDABLE HOUSING:

- 9.1 Internet sites such as *Airbnb*, *Stayz*, *Expedia* etc, state repeatedly that their aim is to increase the number of properties available via their booking platforms by 100% year-on-year. How will the State Government handle the loss of residential properties to the hotel/tourist accommodation sector?
- 9.2 Does the NSW Government have plans to re-house tenants evicted by landlords seeking higher income returns from short-term tourist/visitor letting? There is already a housing shortage.
- 9.3 Will the NSW Government pay compensation to these tenants/essential workers when they are evicted by their short-term letting landlords?
- 9.4 Will the NSW Government create a category of '*special housing*' for essential workers?
- 9.5 Where *will* the NSW Government house essential workers?
- 9.6 Will the NSW Government introduce a special '*essential workers travel card*', providing heavily discounted public transport so that essential services personnel can access their workplaces?
- 9.7 Will the NSW Government permit those receiving state housing to sub-let their rent-subsidised residential properties as short-term tourist/visitor lets?

NO. 10 RE-ZONING OF APARTMENT BUILDINGS AND FREE-STANDING RESIDENTIAL PROPERTIES:

- 10.1 Will hotels/motels/serviced apartments/backpacker lodges/guesthouses/boarding houses etc be rezoned - ie, will their zoning be downgraded, as they are currently valued at 30% to 40% less than residential properties? Quasi-hotels equals devaluation of residential property.
- 10.2 What will be the financial compensation paid to every NSW residential property owner who finds him/herself now owning property that ends up being marketed, sold and used primarily by a third party, as a 'cheap/budget hotel/motel/serviced apartment/backpacker lodge/guesthouse/boarding house'?
- 10.3 It is assumed that 're-zoning' will apply to every residential property and that every owner/tenant will be able to let or sub-let in this manner?

NO. 11 RESIDENTIAL TENANCIES:

- 11.1 Will a separate area of legislation be created to cater for short-term tourist/visitor letting agreements and activities? The *NSW Residential Tenancies Act* is clear: Short-Term Tourist/Visitor Letting Agreements **are not** Residential Tenancies.
- 11.2 What will be the *similarities* and what will be the *differences* between the interests of tenants and those of tourists/visitors under changes to legislation?
- 11.3 Will the responsibilities of landlords differ when their properties are let to tourist/visitors, as opposed to tenants?
- 11.4 Will tenants be afforded the same protection under legislation as tourists/visitors, and vice versa?
- 11.5 Will the two types of letting agreements be interchangeable in any way?
- 11.6 Will tourists/visitors be required to lodge bonds? Assuming they don't, does this penalise tenants?
- 11.7 Will tourists/visitors be required to complete condition reports?

NO. 12 BY-LAWS:

- 12.1 What will happen to owners corporations' by-laws that currently address and prohibit short-term tourist/visitor rentals and overcrowding in residential properties?
- 12.2 How are owners corporations going to address any/all changes in legislation affecting by-laws, and who will pay for administrative and legal expenses associated with re-drafting by-laws?
- 12.3 How can all standard and special by-laws of an owners corporation – such as 'no smoking' - be enforced, when short-term tourists/visitors are usually only in residence for one or two nights?

NO. 13 QUESTIONS OF 'DISADVANTAGE':

- 13.1 What are the disadvantages of short-term tourist/visitor letting in a residential community?
- 13.2 Is short-term tourist/visitor letting unfair to all?
- 13.3 What percentage of residential properties in a) a neighbourhood, or b) an apartment building can be let as short-term tourist/visitor letting? (Obviously a change in legislation would allow 100% of properties – the Government cannot discriminate between owners.)
- 13.4 Why is short-term tourist/visitor letting classified as an *"Illegal Use"* of residential properties almost the world over?
- 13.5 Why would the NSW Government wish to embrace this type of 'use' of residential properties?
- 13.6 Does NSW Fire Safety have concerns over short-term tourist/visitor letting in residential properties? If so, what are these concerns, and why might these be *critical*? Has the NSW Government taken fire safety issues into consideration?
- 13.7 Are there other security and safety issues with short-term tourist/visitor letting in residential properties and neighbourhoods; how severely could neighbouring residents be affected?
- 13.8 How will the NSW Government effectively tax this practice when legislators the world over are extremely critical of online internet accommodation providers' highly developed tax evasion techniques?
- 13.9 Will the NSW Government be able to effectively control all areas of legislation and taxation when the residential housing market is declared *'embraced'* and *'open'*?
- 13.10 Will the NSW Government grant favourable re-writes of planning/zoning/taxation/local government oversight of environmental planning legislation etc at the behest of operators such as *Airbnb*, *Stayz*, *Expedia* etc, as against present planning/zoning/taxation/local government oversight of local environmental planning etc?
- 13.11 Does the NSW Government foresee removing from local government responsibility for the oversight of these areas of planning?
- 13.12 How do owners corporations pre-empt other deals being sought by other short-term tourist/visitor online letting companies?
- 13.13 Besides *Airbnb*, how many other companies and online platforms will the Government also undertake to audit, and how will they go about achieving effective and proper tax collection?

NO. 14 SECURITY ISSUES:

- 14.1 How will owners know if the person short-term letting in their residential building for one or two nights is not assessing security flaws within a building for ulterior motives?
- 14.2 Is it true that there is no legislation banning the use of surveillance cameras in residential properties and does this mean that an owner/tenant can let/sub-let a property with surveillance cameras installed in bedrooms/bathrooms etc? Is there any way to guarantee that filming of this type will not be distributed over the internet?
- 14.3 Will those staying as short-term tourist/visitors have any recourse to compensation should they find that private images of them appear on internet 'porn' and other sites?
- 14.4 Will landlords have the authority to evict short-term tourists/visitors should they stay beyond the period of their agreed short-term letting agreement?
- 16.5 Should a short-term tourist/visitor not agree to vacate a property, which area of legislation will handle such complaints; will there be a separate tribunal created to handle such complaints?
- 16.6 How will building facility/caretaking staff be able to oversee and verify the identity of those staying in a property, particularly when the internet allows a property to be marketed globally, with 'instant confirmations' being the accepted practice for such forms of short-term tourist/visitor letting?

NO. 15 SECURITY ISSUES (cont.):

- 15.1 Assuming owners corporations will have no way of excluding short-term tourist/visitor lettings from their buildings, who will be responsible for the actions and any possible damages caused by people entering a building – the individual/company or the owner/tenant organising such letting agreements, or the owners corporation?
- 15.2 How can residents be satisfied that the identity of a short-term guest has been verified and are background checks possible under such agreements?
- 15.3 Will the NSW Government compensate owners corporations for the costs associated in upgrading and fitting buildings with higher levels of security surveillance and supervision? \
- 15.4 Will NSW Police and NSW Fire Safety and local councils be granted greater access to investigate issues of security, or will their powers to intervene be weakened?

NO. 16 BUILDING, HOME & CONTENTS INSURANCE, AND ISSUES RELATING TO SHORT-TERM LETTING:

- 16.1 NSW strata lot owners currently have unlimited liability should a major event not be covered by insurance. How can the financial viability of every residential property owner, particularly those with stake holdings in buildings with 'common property', be safeguarded under such letting agreements?
- 16.2 Do residential house owners carry the same level of liability?
- 16.3 What are the problems and issues for the insurance industry with regards to short-term tourist/visitor letting in residential properties?
- 16.4 Will the insurance industry introduce higher levies to cover the increased number of claims and higher levels of payouts which *will* result from this type of letting – with the higher charges obviously passed on to *all* residential property owners?
- 16.5 What *will be* the limit of financial exposure of every NSW resident in finding that they own a residential property that ends up being marketed, sold and used primarily as a 'cheap/budget hotel/motel/serviced apartment/backpacker lodge/guesthouse/boarding house'.

NO. 17 LOCAL GOVERNMENT PLANNING ISSUES:

- 17.1 Is the NSW Government doing away with the powers of local government when it comes to planning consents and the administration of local environmental plans?

NO. 18 MINISTER STOKES:

- 18.1 What of *Planning*? Do the submissions made to the NSW Department of Planning's ***Inquiry into the Adequacy of Legislation Covering Short-Term Tourist Letting in NSW*** still exist; have they been considered, or have they been dismissed? Is it ridiculous to suggest or is it too late to request that copies of these submissions be forward to Minister Dominello's staff in *Finance*?

NO. 19 CONSTITUTIONAL RIGHTS:

- 19.1 What will be the **constitutional rights** of NSW residential property owners when it comes to the State Government altering the zoning of residential buildings, potentially converting overnight every property into a quasi-hotel/motel/serviced apartment/backpackers lodge/guesthouse/ boarding house?
- 19.2 Do NSW residents still have the fundamental right to 'the quiet enjoyment' of their homes, and where will residents be expected to live if one seeks such a home environment?
- 19.3 What rights will owners/tenants have to call for their right to 'the quiet enjoyment' of their homes to be respected, should their building or their neighbourhood be turned into a hotel/motel/serviced apartment/backpackers lodge/guesthouse/ boarding house/area dominated by tourists/visitors? What will the State Government do to protect the rights of individual owners/tenants who find the control of their building removed from them and taken over by investors wanting nothing more than the highest possible short-term profit from a residential property?
- 19.4 How are Governments going to overcome the legal issues which protect Strata and Residential Residents such as planning consents and 88B instruments on title relating to use; is a sweeping retrospective cancellation of property rights unprecedented in Australia and do Governments have the power to do this?

Summary of 'Crime in High-Rise Buildings: Planning for Vertical Community Safety'

by

Michael Townsley, Sacha Reid
Danielle Reynald, John Rynne
Benjamin Hutchins

Report to the Criminology Research Advisory Council Grant: CRG 29/11-12

RESULTS

1. BUILDINGS WITH LONG-TERM RESIDENTS RECORDED THE LOWEST LEVELS OF CRIME.
2. BUILDINGS WITH SHORT-TERM TENANCIES (HOLIDAY APARTMENTS, HOTELS) HAD THE NEXT HIGHEST LEVEL OF CRIME.
3. BUILDINGS WITH MIXED TENURE (BOTH LONG AND SHORT TERM TENANCIES) RECORDING THE HIGHEST LEVELS OF CRIME.

Table of Contents

LOCATION OF STUDY: GOLD COAST	2
1. Highest Population Densities of Any Major City in Australia	2
2. Premier Tourist Destination	2
3. Holiday Mode: Targets regarding Safety and Security	2
THREE CORE PROPOSITIONS OF ENVIRONMENTAL CRIMINOLOGY	2
1. Crime is the Result of Motivation and Opportunity	2
2. Crime will occur more frequently in Environments that provide a Greater Number of Opportunities	2
3. Situational Crime Prevention.....	3
CAUSES OF CRIMINAL EVENTS	3
1. Low Ratio of Staff to Customers means more Intoxicated Customers	3
2. Owners Responsibility Highest Level of Preventing Crime.....	3
3. Lack of Management	3
4 TYPES OF BUILDINGS.....	4
PROBLEMS IN RESIDENTIAL BUILDINGS	4
Offence Frequency Proportion	4
SIGNIFICANCE OF THE RESEARCH.....	5
RESULTS	5
1. BUILDINGS WITH LONG-TERM RESIDENTS RECORDED THE LOWEST LEVELS OF CRIME.....	5
2. BUILDINGS WITH SHORT-TERM TENANCIES (HOLIDAY APARTMENTS, HOTELS) HAD THE NEXT HIGHEST.	5
3. BUILDINGS WITH MIXED TENURE (BOTH LONG AND SHORT TERM TENANCIES) RECORDING THE HIGHEST LEVELS OF CRIME.	5

LOCATION OF STUDY: GOLD COAST

1. Highest Population Densities of Any Major City in Australia

This research was conducted in a single study region, the Gold Coast suburb of Surfers Paradise. It has a number of characteristics which make it an ideal focal area for this type of research. First, it has one of the highest population densities in Australia at 3,279 persons per km² (Sydney's average population density is 2,248 persons per km², the highest of any major city in Australia.). Over 70 percent of Surfers Paradise population live in buildings considered high density by ABS (Sydney's average is 20.7%). The percentage of the population living in detached houses is 11.6 (the Sydney average is 58.9%).

2. Premier Tourist Destination

The second characteristic is that Surfers Paradise is a premier tourist destination, attracting more than 4.3 million international and domestic overnight visitors annually (Tourism and Events Queensland, 2012). The combination of residential and tourist population in a commercial area provides a unique and fascinating dynamic.

3. Holiday Mode: Targets regarding Safety and Security

Tourists, in addition to being transient, often have access to cash and other high value personal items, making them attractive targets for criminal opportunities. Moreover, tourists maybe in "holiday mode" and not as vigilant with personal safety and security as they would be in their everyday lifestyle.

THREE CORE PROPOSITIONS OF ENVIRONMENTAL CRIMINOLOGY

1. Crime is the Result of Motivation and Opportunity

The immediate environment plays a major role in criminal behaviour, following the perspective that behaviour arises from an interaction between person and situation (Wortley and Mazerolle, 2008)

2. Crime will occur more frequently in Environments that provide a Greater Number of Opportunities

Crime is not evenly distributed in time or location, nor is it randomly distributed. Rather, it clusters in particular locations and may peak at certain times (Brantingham and Brantingham, 2008; Felson, 2008).....Similarly, crime will occur more frequently at certain times of the day, week, month and year corresponding with the opportunity structure and supply.

3. Situational Crime Prevention

Situational Crime Prevention is the application of environmental criminology principles, and revolves around changing the environmental features of a place so that the person-situation interaction no longer provides opportunities for crime to occur (Clarke, 1983, 1997, 2008).

CAUSES OF CRIMINAL EVENTS

1. Low Ratio of Staff to Customers means more Intoxicated Customers

The risk of violent crime has been found to increase when there is a low ratio of staff to customers, the staff are poorly trained or aggressive, or when the staff are mostly male (Homel and Clark, 1994; Madensen and Eck, 2008). These staff factors were particularly significant when dealing with intoxicated customers though intoxication itself is more related to verbal and non-physical aggression than physical violence (Homel and Clark, 1994).

2. Owners Responsibility Highest Level of Preventing Crime

The owner of a place will obviously have the highest level of responsibility for preventing crimes occurring, while employees will have varying levels of responsibility depending on their role (Felson, 1995).

3. Lack of Management

Clarke and Bichler-Robertson (1998) conducted two case studies, one of a landlord who acquired apartment complexes in Santa Barbara, and the other of a landlord who owned apartment complexes in San Diego. These landlords purchased rental properties in lower class neighbourhoods and spent as little as possible on maintenance and management (Clarke and Bichler-Robertson, 1998). Due to the lack of management of these properties, they often attracted individuals engaged in criminal activities such as drug dealers and prostitutes, who were unlikely to complain about living conditions. Analysis of police calls for service in Santa Barbara discovered that a large number of calls were coming from a small number of properties, all owned by one individual. Further analysis showed that yearly arrest rates had increased at nearly all of these properties after being purchased by this individual.

4 TYPES OF BUILDINGS

- **LONG-TERM RESIDENTIAL.**

This category refers to buildings that are inhabited only by owner-occupiers or long term renters.

- **SHORT-TERM RESIDENTIAL.**

This category includes all buildings that house exclusively short-term occupants, typically holiday makers or inhabitants of a transient nature. The types of buildings included in this category include hotels, resorts, motels and holiday lets.

- **MIXED RESIDENTIAL.**

Buildings that contain a mix of both long and short term residents. Some buildings are primarily owner-occupied but reserve a number of units for short term holiday letting, or hotels that have several floors dedicated to long term residents.

- **NON-RESIDENTIAL.**

Buildings containing no residential units. This included pure retail, office or commercial buildings.

- **UNKNOWN.**

A small number of buildings contained no information about use.

PROBLEMS IN RESIDENTIAL BUILDINGS

Offence	Frequency	Proportion
Other Theft (excl. Unlawful Entry)	3168	0.29
Drug Offences	1429	0.13
Good Order Offences (disorderly behaviour)	1352	0.12
Unlawful Entry	1105	0.10
Other Property Damage	895	0.08
Unlawful Entry With Intent - Dwelling	805	0.07
Assault	529	0.05
Liquor (excl. Drunkenness)	302	0.03
Unlawful Use of Motor Vehicle	244	0.02
Unlawful Entry With Intent - Other	236	0.02
Fraud	232	0.02
Handling Stolen Goods	152	0.01
Breach Domestic Violence Protection Order	86	0.01
Weapons Act Offences	86	0.01
Sexual Offences	83	0.01
Miscellaneous Offences	75	0.01
Trespassing and Vagrancy	70	0.01
Robbery	62	0.01
Other Offences Against the Person	59	0.01
Prostitution Offences	36	0.00
Unlawful Entry With Intent - Shop	34	0.00
Arson	11	0.00
Other Homicide	2	0.00
Gaming Racing & Betting Offences	1	0.00
Homicide (Murder)	1	0.00

SIGNIFICANCE OF THE RESEARCH

The research reported in this project makes a unique contribution to criminology and housing policy by adding to knowledge of crime in high-density strata-title vertical communities. The value of this research is its analytical approach that combined five normally disparate focus areas. This research increases academic knowledge in the following ways:

1. this is the only study conducted in Australia focussing on high-rise residential apartment complexes;
2. this study incorporates a multi-method approach to avoid privileging one method or data source;
3. this study focus on residential crime in a tourist destination; and
4. this study measured place management and guardianship in the same locations concurrently.

RESULTS

(1.4 Results, see page 3)

- 1. BUILDINGS WITH LONG-TERM RESIDENTS RECORDED THE LOWEST LEVELS OF CRIME.**
- 2. BUILDINGS WITH SHORT-TERM TENANCIES (HOLIDAY APARTMENTS, HOTELS) HAD THE NEXT HIGHEST.**
- 3. BUILDINGS WITH MIXED TENURE (BOTH LONG AND SHORT TERM TENANCIES) RECORDING THE HIGHEST LEVELS OF CRIME.**

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THE CIVIL WAR BETWEEN AIRBNB AND RESIDENTS: A GLOBAL ISSUE AND SOON TO ERUPT IN NSW AND AUSTRALIA-WIDE

**ANNEXURE 1 – USA , CANADA, SPAIN, GERMANY, FRANCE , AUSTRIA,
IRELAND**

ANNEXURE 2 - ARTICLES ON AIRBNB



Table of Contents

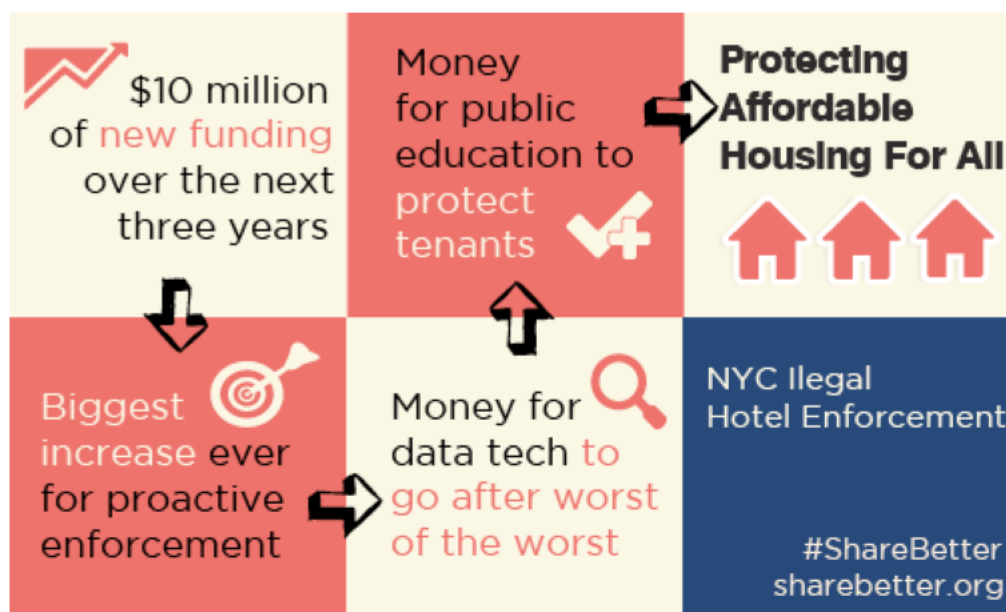
ANNEXURE 1 - USA, CANADA, SPAIN, GERMANY, FRANCE, AUSTRIA, IRELAND	2
New York City (1).....	2
New York City (2).....	3
Austin, Texas	3
City of Manhattan Beach	3
Sacramento, California	4
Santa Barbara, California	4
Vancouver, Canada	5
Barcelona, Spain.....	6
Berlin, Germany.	6
Paris, France.....	6
Vienna, Austria	7
Dublin, Ireland.....	7
ANNEXURE 2 - ARTICLES ON AIRBNB.....	8

ANNEXURE 1 - USA, CANADA, SPAIN, GERMANY, FRANCE, AUSTRIA, IRELAND

It seems that there has so far been precious little “comparison with other jurisdictions” made in Submissions to the Parliamentary Inquiry. None of the various government documents touching on the subject make more than passing reference to inter-state, let alone international situations.

Yet short-lets of residential accommodation is a world-wide phenomenon, and it is because it is a world-wide phenomenon reflecting global social, economic and technological changes that it is so intractable at the local level.

New York City (1) is taking action against short-term letting in residential properties: \$10M more for new staff, cutting edge data to find illegal hotels and a public awareness campaign. The de Blasio administration is giving the money — which will be spread out over the next three years — to its newly beefed-up Mayor’s Office of Special Enforcement, which goes after illegal hotels that advertise on sites like Airbnb¹.



Opponents of short-term home rental services waste no time blasting Airbnb’s peace overtures. Just hours after Airbnb pledged to make nice with municipal officials in the pages of the New York Times, New York State Attorney General Eric Schneiderman and San Francisco affordable housing activists — two of the company’s most vocal and consistent critics — called the move a mere PR gimmick.²

¹ <http://nydn.us/1SvmpOW>

² <http://recode.net/2015/11/11/new-york-attorney-general-activists-call-bullshit-on-airbnbs-promises/>

New York City (2) demands more data from Airbnb on lawbreaking host³. After news that Airbnb purged more than 1,000 shady listings from its site before opening its books to lawmakers, the city is demanding more data from the company - including the names and addresses of hosts who are breaking the law.

In a letter to Airbnb, Deputy Mayor Alicia Glen said the quiet scrubbing shows that the company has the ability to root out hosts who violate rules, something she said it previously claimed to have no way to do.

- **Mayor De Blasio Puts Airbnb On Notice**

"Your confirmation of this purge shows an ability and willingness by Airbnb not only to identify hosts who violate multiple city and state laws, but also to drop these bad actors from your platform. You have previously indicated to us that these actions were not feasible or even possible," Glen wrote to Airbnb director for global policy and public affairs Chris Lehane.

"Although the city is concerned that Airbnb chose not to disclose that it had purged bad actors from its platform before publicly releasing data regarding hosts, we are even more concerned by recent reports that these bad actors have begun to return to your site," she wrote. "We request that you continue to proactively engage in this process and make efforts to prevent purged hosts from returning. Additionally we ask that you provide us with data on these individuals and any others who may be violating our laws."

- **Fight Against Airbnb Turns Enemies Into Pals**

Glen told the company to hand over the names and addresses of hosts who offer stays for fewer than 30 days and have two or more units listed, so the city can hit them with fines and other enforcement.

The city also plans to send requests to similar services like HomeAway, FlipKey, Vacation Rentals, and VRBO.

Austin, Texas⁴, has voted to phase out some short-term rentals. After months of debate that culminated in a march of HomeAway advocates on Austin City Hall, a divided City Council revamped its rules on short-term rentals to phase out a certain kind of units from neighborhoods by 2022.

The provision applies to Type 2 units, which are owned by someone who doesn't live on site and are leased for less than 30 days at a time to guests throughout the year — giving rise to what some residents have described as "party houses" in the heart of neighborhoods.

Austin has 434 such units licensed throughout the city, though it is unclear how many exist in commercial areas where they would be allowed to remain.

City of Manhattan Beach, transient uses including short-term vacation rentals (less than 30 days) in residential zones are not allowed under the City Zoning Code and are incompatible with the goals and objectives of the City's General Plan. The General Plan aims to preserve and maintain residential neighborhoods and to protect residential neighborhoods from the intrusion of incompatible and character-changing uses. Short-term vacation rentals and other transient uses in residential zones can have a severe negative impact on the character and stability of the residential zones and its residents.

³ <http://m.nydailynews.com/new-york/city-demands-data-airbnb-lawbreaking-hosts-article-1.2556128>

⁴ <http://www.mystatesman.com/news/news/local/austin-council-moves-toward-phasing-out-some-short/nqWq9/>

The Planning Commission and City Council considered allowing transient uses on a limited basis. Numerous residents emailed the City and testified at the public hearing about the negative impacts on residential neighborhoods, such as increased traffic congestion, overuse of public parking, noise, and crime. Based upon such public input, the City Council maintained the status quo of prohibiting transient uses on June 16, 2015. Property owners that registered by April 30, 2015 with the City for tax purposes, may continue operating renting their property on a short-term basis until the end of the year. Rentals in Commercial Zones are not affected, nor are long-term rentals of 30 days or more to single housekeeping units.⁵

‘The fight against *Airbnb* (and other short-term letting operators) turns enemies into pals’. That includes tenant activists, the powerful Real Estate Board of New York – and even some Democrats and Republicans. “It’s a united front because it harms landlords and tenants and the housing market in general,” said NY Assemblywoman Linda Rosenthal, who is sponsoring a bill to ban advertising illegal units.⁶

Sacramento, California the council has taken up a proposed Airbnb ordinance which recommends striking a balance between the new economy and protecting neighbourhoods. Short-term rentals would be capped at 90 or 120 days annually, and neighbours would be notified. The iteration would limit short-term hosts to six guests at a time, and require people renting to follow the same rules as hotels and bed-and-breakfasts, including obtaining a business operations tax certificate and collecting the 12% transient occupancy tax mandated by the city. They also pay a nominal price for a short-term rental permit that the city could tighten or revoke in the event of a violation. Once issued, the city would notify neighbouring property owners within 200 feet. The council’s law and legislation committee recommends a 90-night aggregate limit on rentals, while the planning and design commission thinks the city should cap it at 120 nights.⁷

Santa Barbara, California. In December 2015, despite Airbnb’s hiring of local lobbyists and organizers, the Santa Barbara City Council voted for a ban on short-term rentals, saying guests using the service had become a nuisance and were squeezing residents out of the local housing market. Within an hour’s drive from there, the City of Oxnard and Ventura County are proposing similar regulations. In January 2016, the tiny wine town of Ojai unanimously approved rules that prevent short-term rentals on sites like Airbnb. “We could probably collect somewhere in the range of \$6 million a year of taxes from website companies, but in the end we felt that in order to limit growth and preserve the local quality of life, we would have to make difficult choices,” Gregg Hart, a Santa Barbara City Council member, said of the recent vote.⁸

Nearly a third of the revenue generated by the short-term rental company Airbnb in 12 major markets comes from homes and apartments that are rented out on a full-time basis.

⁵ <http://www.ci.manhattan-beach.ca.us/city-services/community-development/planning-zoning/short-term-vacation-rentals>

⁶ <http://m.nydailynews.com/new-york/fight-airbnb-turns-enemies-pals-article-1.2546873>

⁷ <http://www.sacbee.com/opinion/editorials/article55326890.html>

⁸ http://www.nytimes.com/2016/01/22/technology/airbnb-takes-its-case-to-us-mayors-conference.html?ref=business&_r=1

That was one of the conclusions of Penn State study commissioned by the American Hotel and Lodging Assn., a trade group for the nation's hotels. The group said the findings point out a "very disturbing trend" that suggest the rentals are operating like **"unregulated hotels"**.

"This report shows a troubling trend as a **growing number of residential properties are being rented out on a full-time, commercial basis**, in what amounts to an illegal hotel, and using Airbnb as a platform for **dodging taxes, skirting the law and flouting health and safety standards**," she said.⁹

The **"Los Angeles Appeals Court Rules Airbnb Illegal In Residential Zones**. This decision means that short-term rentals are no longer a legal "gray area." There is NO QUESTION that it is illegal to short-term rent your apartment on Airbnb or another STR platform. At least in Los Angeles. Your landlord can evict you if you do. This also makes it illegal for any landlord to convert to STR use, regardless if rent-stabilized or not. Now, the folks that enforce the law, can proceed to enforce the law, armed with the knowledge that the courts will, and must, back them up, because of this decision¹⁰:

"You can't put your apartment on Airbnb. At least in Los Angeles your landlord can evict you if you do."

"Let's get real...Airbnb could make enforcement easy by simply refusing to advertise unregistered properties. Of course, they won't do this because it would mean significant revenue loss. The greatest proportion of their profits are from illegal activity, i.e., commercial operators and unregistered illegal units. The company's ability to evade regulations around the world remains a key factor in their financial success. Nudging hosts with e-mails is hardly sufficient. Who are they fooling?" Airbnb will start pestering hosts in its hometown of San Francisco to register with the city and report their rental activity each quarter, executives wrote in two letters to the city obtained by Bloomberg.¹¹

Vancouver, Canada, a Simon Fraser University master's student's findings (June 2016) showed short-term rentals on Airbnb may be contributing to the city's near-zero vacancy rate.

Airbnb is the hugely popular site where people the world over can make money by providing accommodation in their homes, or helping people find affordable places to stay while travelling. The accommodation can be as basic as someone's couch or as opulent as someone's yacht or penthouse. The sky is the limit. As part of her thesis, Karen Sawatzky obtained the data from Airbnb's website, crunched the numbers and discovered that 71 per cent of Vancouver Airbnb listings are for entire homes. It's a significant finding, because it means that if the majority of Vancouver Airbnb hosts have entire apartments or houses to spare, then they're not renting them out to full-time tenants. A significant chunk of the rental stock is lost.¹²

⁹ <http://www.latimes.com/business/la-fi-airbnb-hotels-20160120-story.html>

¹⁰ <http://www.courts.ca.gov/opinions/documents/JAD16-01.PDF>

¹¹ <http://www.bloomberg.com/news/articles/2016-01-11/airbnb-s-latest-weapon-in-full-time-landlord-crackdown-e-mail-and-snail-mail>

¹² <http://www.theglobeandmail.com/life/home-and-garden/real-estate/is-airbnb-inflating-the-vancouver-housing-crisis/article25156301/>

And the problem is not unique to Vancouver. It's also hitting **Toronto** and **Montreal**, where the number of Airbnb listings is growing.¹³

Barcelona, Spain. Barcelona's tourism industry has been recognized as out of control for some time, and when Mayor Ada Colau entered office this June, she did so promising to crack down on its excesses. Now, just that is happening. This week the homestay sites Airbnb and HomeAway were slapped with Euro 60,000 fines for advertising apartments that did not possess the permit the city now requires. Long-simmering local resentment has boiled over at times. Last summer the waterfront Barceloneta neighborhood saw nightly demonstrations against party tourists with up to 1,000 sleep-starved protestors, a phenomenon that came to be called the Barceloneta Crisis.¹⁴

Berlin, Germany. In *Tourism Troubles: Berlin Cracks down on Vacation Rentals*. Berlin passed a law banning unregistered vacation rentals in the city because of a shortage of residential housing. A sharp increase in tourism and the popularity of renting private apartments is exacerbating a serious problem. In autumn of 2013, Berlin city government passed a law banning all vacation rentals that had not been registered with the local authorities by summer 2014. The city granted an extension to just under 6,000 accommodations, but they, too, will have to be made available on the normal apartment rental market beginning by May 2016.¹⁵

Paris, France officials have been carrying out "raids" on apartments in the 1st and 6th arrondissements in the 1st and 6th arrondissements - both hugely popular areas for tourists. The raids follow a similar crackdown in the Marais six months ago.

And there are many landlords who play by their own rules. A recent survey that across France, 44 percent of the homes advertised on Airbnb are permanently available for rental.

But perhaps not for long. Those who offer more than their share of nights face fines of up to €25,000, but officials are looking into hiking this fourfold to €100,000.

Parisians are expressing a growing frustration with the never-ending stream of Airbnb tenants carting luggage up the stairs of their apartment buildings.

City officials are also well aware that the ever-profitable properties are making life tough for Parisians who want to find their own lodgings so they can live in the city.

These housing problems add to the already expensive Paris property market, which is notoriously difficult to crack - especially for renters.¹⁶

¹³ <http://www.cbc.ca/radio/thecurrent/the-current-for-march-2-2016-1.3472126/vancouver-airbnb-listings-increase-as-rental-vacancies-fall-below-1-per-cent-1.3472258>

¹⁴ <http://www.citylab.com/housing/2015/12/barcelona-airbnb-tourism/421788/>

¹⁵ <http://www.spiegel.de/international/business/berlin-cracks-down-on-estimated-18-000-vacation-rentals-a-1026881.html>

¹⁶ <http://www.thelocal.fr/20160113/paris-cracks-down-on-illegal-airbnb-flats>

Vienna, Austria taxman tells Airbnb users to cough up: Vienna is to follow Berlin and New York in cracking down on people who rent their private accommodation to tourists through websites such as Airbnb. "International platforms cannot escape these obligations and should not believe that the rules that apply to Austrian hotels do not apply to them," said the city financial advisor Renate Brauner.

If a house is used commercially - for example if it is one of many operated by the same landlord or if there are employees involved - then a business license must also be obtained.

The fine for people who do not have a license who should has also been increased from €420 to €2,100 - and those who do not pay can expect inspectors to come knocking on their door, the city warned.¹⁷

Dublin, Ireland. What a surprise, Airbnb Chooses Dublin as European Headquarters, Here comes the 2% tax rate: "It would have been almost criminal if Airbnb hadn't chosen somewhere in Ireland to be its European headquarters: arguably, given what we know about the tax advantages of doing so, possibly getting close to a breach of fiduciary duty to shareholders."¹⁸

At least 8,000 residences in Athens have been illegally rented out to visitors in a "property share" model popularized by sites such as Airbnb, which has led to increased tax losses for the state from illegal accommodation, according to data presented on Tuesday by the head of the Athens-Attica & Argosaronic Hotel Association, Alexandros Vassilikos.

He noted that while some properties are rented out to tourists without paying any tax at all, legal hotels have to pay a total of 24 various levies to the state.

Vassilikos also cited other illegal forms of tourism accommodation, such as the suspicious case of 126 apartments supposedly rented by a single tenant, or the 32 apartments in the same block of flats that were all rented out to tourists.¹⁹

¹⁷ <http://www.thelocal.at/20160301/vienna-taxman-tells-airbnb-users-to-cough-up>

¹⁸ <http://www.forbes.com/sites/timworstall/2013/09/13/what-a-surprise-airbnb-chooses-dublin-as-european-headgaurters-here-comes-the-2-tax-rate/#7e911a2274e5>

¹⁹ <http://www.ekathimerini.com/204160/article/ekathimerini/business/hoteliers-blast-airbnb-style-model>

ANNEXURE 2 - ARTICLES ON AIRBNB

New York:-

New York State Attorney General's Report on Airbnb in New York City:
<http://www.ag.ny.gov/pdfs/Airbnb%20report.pdf>

New York Communities for Change – Real Affordability for All – Airbnb in NYC: A Housing Report: <http://nycommunities.org/airbnb-nyc-housing-report>

San Francisco:-

San Francisco Budget and Legislative Analyst's Office - Analysis of the impact of short-term rentals on housing: www.sfbos.org/Modules/ShowDocument.aspx?documentid=52601

San Francisco Planning Department Amendments Relating to Short-Term Rentals:
commissions.sfplanning.org/cpcpackets/2014-001033PCA.pdf

SF Office of Economic Analysis: Amending the Regulation of Short-Term Residential Rentals: Economic Impact Report: sfcontroller.org/Modules/ShowDocument.aspx?documentid=6457

Barcelona:

Barcelona Mayor's tourism Crackdown Puts Airbnb in Firing Line:
<http://www.businessinsider.com/r-barcelona-mayors-tourism-crackdown-puts-airbnb-in-firing-line-2015-8?IR=T>

Paris:

Last summer, this Paris neighbourhood had more Airbnb guests than actual residents – it's bad news for the city's Hotels <http://qz.com/438410/last-summer-this-paris-neighborhood-had-more-airbnb-guests-than-actual-residents/>

North America:

Turning Housing into Hotels <http://www.eastbayexpress.com/oakland/turning-housing-into-hotels/Content?oid=4499687>

Airbnb Violations Now Being Used More Often Than The Ellis Act in Evicting San Francisco Tenants http://sfist.com/2015/04/24/airbnb_violations_now_being_used_mo.php

Apartment-sharing Websites Like Airbnb.com pose 'concerns' for New York City, Controller Says
<http://www.nydailynews.com/news/national/city-controller-airbnb-poses-concerns-city-article-1.2084690>

Enterprising house sitter rented out couple's home on Airbnb while they were away
<http://mashable.com/2015/09/18/housesitter-rented-home-airbnb/#ZblzF.rKb8qk>

Barcelona Mayor's tourism Crackdown Puts Airbnb in Firing Line
<http://www.businessinsider.com/r-barcelona-mayors-tourism-crackdown-puts-airbnb-in-firing-line-2015-8?IR=T>

Nearly 40% of @Airbnb revenue goes to real estate Moguls
<https://www.youtube.com/watch?v=-yHRy7Hn2qg&feature=youtu.be>

Airbnb: where does fire safety come into play? <http://www.shponline.co.uk/airbnb-where-does-fire-safety-come-into-play/>

Dallas Has Hundreds of Airbnb Hosts. Two of Them Pay Their Taxes
<http://www.dallasobserver.com/news/dallas-has-hundreds-of-airbnb-hosts-two-of-them-pay-their-taxes-7542795>

Airbnb causing condo conflict in Vancouver <http://www.cbc.ca/news/canada/british-columbia/airbnb-condo-vancouver-1.3231426>

Airbnb Keeping Hosts In The Dark About Missing Payments
<http://www.forbes.com/sites/ellenkilloran/2015/09/15/airbnb-keeping-hosts-in-the-dark-about-missing-payments/2/>

Turning Housing into Hotels <http://www.eastbayexpress.com/oakland/turning-housing-into-hotels/Content?oid=4499687>

Is Airbnb in Baton Rouge Illegal? Zoning Prohibits Short-Term Rentals in Many Cases
http://www.nola.com/news/baton-rouge/index.ssf/2015/09/airbnb_baton_rouge_illegal.html

Anaheim may freeze plans for new short-term rentals <http://www.latimes.com/business/la-fi-anaheim-short-term-rentals-20150915-story.html>

Airbnb can't find a supporter in NY so they hire an anti-regulation Washington lobbyist to do their bidding
<http://nypost.com/2015/09/01/how-airbnb-actually-makes-nyc-affordable/>

Stockholm joins other European Cities to crackdown on Airbnb listings
<http://www.thelocal.se/20150827/woman-hit-by-stockholms-first-airbnb-ban>

Man Finds Strange Couple in His Bed After Roommate Airbnbs His Condo
<http://gawker.com/man-finds-strange-couple-in-his-bed-after-roommate-airb-1727731841>

Fire Breaks Out at McKibbin Lofts in West Williamsburg, FDNY Says
<https://www.dnainfo.com/new-york/20150831/east-williamsburg/fire-breaks-out-at-mckibbin-lofts-east-williamsburg-fdny-says>

New Airbnb scam dupes several Telegraph readers
<http://www.telegraph.co.uk/travel/travelnews/11809547/New-Airbnb-scam-dupes-several-Telegraph-readers.html>

Airbnb hires Clinton's 'Master of Disaster' for battle with NY lawmakers
<http://nypost.com/2015/08/27/airbnb-hires-former-clinton-and-cuomo-operative-for-battle-with-ny-lawmakers/>

Laguna Beach extends moratorium on short-term rentals
<http://www.ocregister.com/articles/short-678393-city-term.html>

Short-Term Rentals Are Taking 11 Units Off the LA Rental Market Every Day
http://la.curbed.com/archives/2015/08/airbnb_rental_effects_los_angeles.php

Just How Rampant Are Airbnb Rentals in Your Neighbourhood?
http://ny.curbed.com/archives/2015/06/29/just_how_rampant_are_airbnb_rentals_in_your_neighborhood.php

New worry for Home Buyers: A Party House Next Door
http://www.nytimes.com/2015/10/10/your-money/new-worry-for-home-buyers-a-party-house-next-door.html?ref=business&_r=1

An Open Letter to Airbnb & Emy About Housing and Prop F
<https://medium.com/@sfhousingrightscommittee/an-open-letter-to-airbnb-emy-about-housing-and-prop-f-8d1bfb84356>

Tourism Troubles: Berlin Cracks Down on Vacation Rentals
<http://www.spiegel.de/international/business/berlin-cracks-down-on-estimated-18-000-vacation-rentals-a-1026881.html>

The Debate Over Airbnb Rages on in San Francisco <http://time.com/4056594/airbnb-san-francisco-vote/>

No surprise: That Airbnb study of rentals in L.A. isn't what it seems
<http://www.latimes.com/business/hiltzik/la-fi-mh-airbnb-study-of-rentals-20150930-column.html>

Residents want L.A. to do more to enforce short-term rental regulations
<http://www.latimes.com/local/california/la-me-airbnb-teeth-20150926-story.html>

Spurred on by conflict over Airbnb, L.A. struggles to define 'bad' short-term rentals
<http://www.latimes.com/local/california/la-me-airbnb-tension-20150903-story.html>

Rosenthal: Airbnb's burden to come clean <http://www.nydailynews.com/opinion/rosenthal-airbnb-burden-clean-article-1.2132265>

Airbnb Wants to Tackle Income Inequality and Climate Change!
http://www.huffingtonpost.com.au/entry/airbnb-chris-lehane-income-inequality-climate-change_55e5a8d2e4b0c818f6190cdd?utm_hp_ref=business§ion=australia&adsSiteOverride=au

L.A. Officials want to keep Airbnb-type rentals from being 'rogue hotels'
<http://www.latimes.com/local/lanow/la-me-ln-airbnb-rental-regulations-20150825-story.html>

Bill Maher blasts 'the sharing economy': We did it to ourselves by worshipping greed
<http://www.rawstory.com/2015/08/bill-maher-blasts-the-sharing-economy-we-did-it-to-ourselves-by-worshipping-greed/>

L.A. city officials say Hollywood high-rise can't be used as hotel
<http://www.latimes.com/local/lanow/la-me-ln-hollywood-building-hotel-20150819-story.html>

People are being evicted, harassed, intimidated: Why Venice Beach is Ground Zero for the Airbnb Backlash
<http://www.laweekly.com/news/why-venice-beach-is-ground-zero-for-the-airbnb-backlash-5928207>

Airbnb Horror Story Points to Need for Precautions <http://www.nytimes.com/2015/08/15/your-money/airbnb-horror-story-points-to-need-for-precautions.html?smid=fb-share>

LA's Airbnbs and the Betrayal of Public Trust <http://citywatchla.com/lead-stories-hidden/9469-la-s-airbnbs-and-the-betrayal-of-public-trust>

Who really runs the Airbnbs – Sociological Images
<http://thesocietypages.org/socimages/2015/08/11/who-really-runs-the-airbnbs/>

New activists emerging from LA's rental crisis <http://www.scpr.org/news/2015/08/06/53592/la-high-rents-evictions-tenants-union/>

Study: 28 percent of E.V rentals are on Airbnb <http://thevillager.com/2015/08/06/study-28-percent-of-e-v-rentals-are-on-airbnb/>

The Uber-ization of Activism <http://www.nytimes.com/2015/08/07/opinion/the-uber-ization-of-activism.html?ref=opinion>

Venice Protesters Rally Against Airbnb <http://www.nbclosangeles.com/on-air/as-seen-on-Airbnb-Rally-Held-320545312.html>

Airbnb makes a big play for business travellers with revamped expense report dashboard
http://www.bizjournals.com/sanjose/blog/techflash/2015/07/airbnb-business-travel-hotel-twilio-google.html?surround=etf&ana=e_article

Airbnb guest suspected of stealing \$35k from San Francisco home

<http://www.itworld.com/article/2955875/business/airbnb-guest-suspected-of-stealing-35k-from-san-francisco-home.html>

Uber and the lawlessness of ‘sharing economy’ corporates

http://www.theguardian.com/technology/2015/jul/28/uber-lawlessness-sharing-economy-corporates-airbnb-google?CMP=share_btn_fb

City beefs up unit probing Airbnb abuses **<http://nypost.com/2015/07/16/city-beefs-up-unit-probing-airbnb-abuses/>**

The Airbnb Impact **<http://www.sfchronicle.com/airbnb-impact-san-francisco-2015/#1SF>**

LA Planning Department’s Airbnb “Listening Session” **<http://www.citywatchla.com/lead-stories-hidden/9768-la-planning-department-s-airbnb-listening-session-turns-a-deaf-ear-to-neighborhood-councils>**

THE NON-COMPLIANCE AND MISCONDUCT OF CARETAKERS/BUILDING MANAGERS (BMs) & STRATA MANAGING AGENTS (SMAs)

Notwithstanding three resolutions, the strata manager failed to write a bi-monthly/quarterly progress report – obstructively, and thus did not keep owners informed about several reports regarding water ingress in a garage. In addition, he failed to comply with several resolutions adopted in general and EC meetings.

The hidden costs of having corrupt Strata Managing Agents and Caretaker/Building Managers

Table of Contents

DYSFUNCTIONAL STRATA MANAGING AGENTS (SMAs): NON-COMPLIANCE AND MISCONDUCT	2
SMAs, IN THEIR DEFENCE, CLAIM THEY ACT ON INSTRUCTIONS ONLY	2
SMA 5 YEAR TERM.....	2
SMA SUPPORT SHORT-TERM LETTING TO PROTECT THEIR INCOME	2
SMAs FAILURE TO MAINTAIN PROPER RECORDS	2
SMAs, WHEN THEY ARE CHALLENGED, SAY THEY ARE JUST ACTING ON INSTRUCTIONS ..	2
SMAs HIDE THE TRUTH FROM NCAT	3
BURDEN OF PROOF AND INABILITY OF FAIR TRADING	3
SMA COLLUSION WITH COMMITTEE MEMBERS	3
SMA STRATEGIES TO STAY IN POWER.....	3
SMA UNPROFESSIONAL CONDUCT	4
SMA FAIL TO RESPOND TO CORRESPONDENCE	4
SMA INACTION ON SPECIFIC PROBLEMS.....	4
SMA POOR COMMUNICATIONS	4
SMA HIDDEN CONTRACT CHARGES	4
SMA HIDDEN COSTS	4
DYSFUNCTIONAL CARETAKER/BUILDING MANAGERS (BM): THE NON-COMPLIANCE AND MISCONDUCT	5
BM SUPPORTING SHORT-TERM LETTING IN RESIDENTIAL BUILDINGS.....	5
BM GRANTING SPECIAL ACCESS	5
BM HAVING UNLIMITED POWER	5
TURNING A BLIND EYE	5
BM AND SMA IN COLLUSION	5
BM CONTROLLING LETTING POOL AND GIVING KICKBACKS TO OWNERS AND/OR COMMITTEE MEMBERS.....	6
BM, EXECUTIVE COMMITTEE AND STRATA MANAGING AGENT IN COLLUSION	6
BM FAILURE TO KEEP ACCURATE RECORDS	6
BM MAKING \$10,000 A YEAR IN KICK BACKS FROM CONTRACTORS	6

DYSFUNCTIONAL STRATA MANAGING AGENTS (SMAs): NON-COMPLIANCE AND MISCONDUCT.

SMAs, IN THEIR DEFENCE, CLAIM THEY ACT ON INSTRUCTIONS ONLY

- The SMA is employed by the Owners Corporation and takes direction from the Executive Committee - they act 'on instruction' they do not 'give instructions'. When SMAs are complicit in sheltering and/or promoting short-term letting contrary to the Development Consent, they will claim that they have *only* acted as per instructions from the Committee.

SMA 5 YEAR TERM

- The Strata Managing Agent's position is dependent on the Executive Committee of the Strata Scheme. The Committee can, with a 75%+ vote at a General Meeting, resolve to dismiss a Strata Manager unless they have been given 5 year term contract from a previous executive committee.

SMA SUPPORT SHORT-TERM LETTING TO PROTECT THEIR INCOME

- In the case where there is wide-spread short-term letting within a residential strata scheme, SMAs have and will become completely complicit in this activity when an Executive Committee is stacked with Owners who are short-term letting. SMAs will do the Committee's bidding in order to secure ongoing contracts with the OC.
- Such a symbiotic relationship leads to complete interdependency between the Committee and SMA. The Committee is then free to use OC funds to control information going to Lot Owners through the SMA. This is particularly so in large schemes where independent owners calling for compliance find it difficult and prohibitively expensive to communicate effectively with the Owners Corporation, simply due to the cost of repeatedly having to communicating via post with non-resident owners, and where a campaign of discrediting compliant owners has been waged by the Committee.

SMAs FAILURE TO MAINTAIN PROPER RECORDS

A SMA will also mask activity within the strata by failing to maintain proper records, such as the Strata Roll. In Maestri Towers and [REDACTED] short-term letting was covered up by the SMA – Strata Roll records were falsified, ie no letting agreements were ever recorded against lots short-term let. The SMA would simply say that they were not informed by the Owner, EC Members included, Caretaker/Short-Term Letting Agent, so were not in a position to update the Roll, when in fact the SMA was completely complicit in this exercise.

SMAs, WHEN THEY ARE CHALLENGED, SAY THEY ARE JUST ACTING ON INSTRUCTIONS

Where complaints have been made to the NCAT, the SMA will state that they are simply acting 'on instructions' from the executive committee; they assume no responsibility for any unlawful activity, thus to avoid the possibility of losing their position to a SMA installed by the NCAT.

SMA's HIDE THE TRUTH FROM NCAT

- Applications to the NCAT requesting Orders to remove a complicit SMA has seen the Committee advise that they have the SMA's position out to competitive tender. The NCAT/CTTT left the SMA in situ. The Committee subsequently cancelled the tender process, announcing to the OC that they were retaining the SMA due to their knowledge of and experience with short-term letting practices within the strata.
[REDACTED]
- SMA's have made false and misleading statements to the NCAT, discrediting the Applicant. Under Section 71 of the Civil and Administrative Tribunal Act 2013 this is not permitted. Maximum penalty: 50 penalty units or imprisonment for 12 months, or both. And under Section 73 of the same Act, this is classified as *Contempt of Tribunal*. Can the Members of the Parliamentary Hearing Committee give one example of where these Sections of the Civil and Administrative Tribunal Act have been successfully implemented...or has there never been an example of a SMA providing false and misleading statements?

BURDEN OF PROOF AND INABILITY OF FAIR TRADING

- The burden of proof lies completely with the Owner/Owners calling for a halt to short-term letting and other associated practices. A Department of Fair Trading spokesperson recently advised that, due to funding cuts/staffing limits, unless a complainant had specific proof of fraud being committed by the SMA against the OC, Fair Trading lacked the physical resources to investigate and intercede. Strata Owners have been instructed verbally – nothing is received in writing from Fair Trading – to stop writing to the Department with complaints.

SMA COULLISION WITH COMMITTEE MEMBERS

- Where the short-term letting cohort still controls the Committee, the original SMA can remain in place for years, as is the case at [REDACTED] after 18 years of unlawful activity.

SMA STRATEGIES TO STAY IN POWER

- SMA's can adopt various strategies in order to gain more power and control of the Owners Corporation. Examples:
 1. acting as chairman at every general meeting of the owners corporation "by default";
 2. issuing the standard Proxy Form with the company's letterhead;
 3. interfering with a Notice of Meeting of the executive committee, without informing the EC secretary/chairman and sending out the amended EC Notice with company's letterhead;
 4. occasionally recording inaccurate and manipulative minutes seeking either to intimidate or protect owners;
 5. inaccurate motion on the agenda, against their better knowledge, in order to intimidate owners, etc.

SMA UNPROFESSIONAL CONDUCT

- Unprofessional conduct of the SMA in the role of chairman of general meetings.

SMA FAIL TO RESPOND TO CORRESPONDENCE

- SMA can and do fail to respond correspondence from an individual owner seeking compliance, or correspondence from the EC Secretary/Chairman, where the Executive is attempting to correct unlawful activity. SMAs have also refused to act upon resolutions passed at EC meetings, requiring specific action to be taken by the SMA, thus ignoring and undermining the role and positions of responsibility of the Executive Committee Members.

SMA INACTION ON SPECIFIC PROBLEMS

- SMAs can and do fail to take appropriate action and answer correspondence relating to problems in a building.

SMA POOR COMMUNICATIONS

- SMAs can and do fail to communicate with the OC in a direct, transparent way, to achieve the best outcome for the building and the strata scheme, and notably to comply with Section 62 of the *Strata Schemes Management Act 1996* (SSMA).

SMA HIDDEN CONTRACT CHARGES

- SMA contracts can say they will only charge \$40,000 per year. In one such contract the add-ons were so complicated and repeated that the Owners Corporation ended up paying \$105,000 instead of the scheduled \$40,000; details of the additional charges were masked in the financial statements which they produced monthly. Collusion between the SMA and Committee Members short-term letting saw this practice persist year after year.

SMA HIDDEN COSTS

- Some SMA are often chronically behind in producing data on financial statements, often claiming that their computer software programs are ineffective. One SMA stated that he was owed \$200,000 by the OC; this claim being produced some 6-12 months after the said period.

Acknowledging that there are many highly professional and conscientious Strata Managing Agents practising in the area of Strata. Regrettably, there is an almost endless list of unlawful and unconscionable behaviour perpetrated by many Strata Managing Agents that Owners Corporations and individual Lot Owners must struggle with on a daily basis. This struggle can and does last for years.

DYSFUNCTIONAL CARETAKER/BUILDING MANAGERS (BM): THE NON-COMPLIANCE AND MISCONDUCT.

BM SUPPORTING SHORT-TERM LETTING IN RESIDENTIAL BUILDINGS

- Often the 'in house' Caretaker or Building Manager (BM) is the main short-term letting operator within a Strata Scheme.

BM GRANTING SPECIAL ACCESS

- Having control of who comes/goes in a property, BMs grant access either whilst on site, or simply by way of emailing codes to breach any front door security/access system.

BM OPERATING ILLEGAL SHORT-TERM LETS

- The BM will then use staff paid for by every owner in the OC to man the short-term letting operation. This extends from check-in/check-out procedures, responding to 'guests' service needs, to cleaning staff. Again, all costs borne by every member of the Owners Corporation.

BM HAVING UNLIMITED POWER

- When a Caretaker has the numbers to install his own short-term letting owners/clients onto the Executive Committee, the reach and extent of his power to act at his discretion and in his interests then becomes close to limitless. In the case of [REDACTED], the BM occupied every inch of common property under lock-and-key and used this area, without payment to the OC, for 17-18 years. These Common Property areas were used exclusively to run the short-term letting operation. Calls to the CTTT/NCAT to rectify the situation and see payment made to the OC failed. Both the CTTT and NCAT dismissed all Request for Orders.

TURNING A BLIND EYE

- When the BM is a short-term letting operator and his clients are Executive Committee Members, quickly following is an environment where a blind eye is turned to any and every breach of strata legislation, protocol and good conduct, as those involved in unlawful short-term letting cannot be seen to be calling others to account. SMH journalist, Jimmy Thomson, wrote of [REDACTED] that it was one of the worst cases of EC incompetence, illegal behaviour and action bordering on corruption that he had come across in 12 years of writing about strata. [REDACTED] was and still is under the control of the short-term letting EC/SMA.

BM AND SMA IN COLLUSION

- A BM can sit silently behind the scenes and have his Committee Members, with the full co-operation of the SMA, do his bidding. This presents an impossible situation for individual Owners calling for compliance.

BM CONTROLLING LETTING POOL AND GIVING KICKBACKS TO OWNERS AND/OR COMMITTEE MEMBERS

- When the BM/short-term operator controls the major letting pool, it can be assumed - though proof is almost impossible to establish - that his Committee Members will be receiving favourable treatment by way of close to 100% occupancy, possibly/probably lower management fees, and in special cases, and renovations/upgrades to EC Members apartments on an FOC basis.

BM, EXECUTIVE COMMITTEE AND STRATA MANAGING AGENT IN COLLUSION

- Such a united front - Executive Committee/Strata Managing Agent/Caretaker - can present a co-ordinated legal response, all paid for with OC funds, to the NCAT against any Request for Orders, with their argument being upheld by an NCAT Adjudicator. It appears that NCAT Adjudicators have difficulty finding *against* members of the Legal profession and Parliamentarians involved in controlling strata schemes, even when they are presented with thousands of pages of supporting documentation from an Applicant requesting Orders.

BM FAILURE TO KEEP ACCURATE RECORDS

- When the BM is a large, short-term letting operator, failure to keep and provide proper strata roll records under Section 119 - "Notice of leases and subleases" – is achieved, when the EC and SMA collaborate.

BM MAKING \$10,000 A YEAR IN KICK BACKS FROM CONTRACTORS

- We believe that previous building managers made \$10,000s every year by expecting contractors to add 10% to their quotations, when were then paid back to the BM or SMA in commission payments. This gives a contractor the, perhaps misplaced, impression that ongoing work from the BM/SMA is secure.

The list can go on and on and owners corporations, unless they are VERY experienced or find some to of undertaking a forensic review of records and accounts etc, will have can and do have major problems with Strata Managing Agents and Caretakers/Building Managers.

There are multiple accounts from Owners Corporations and individual Owners who have followed every avenue available under current legislation, and who have found it impossible to achieve any change whatsoever to ongoing, unlawful practices within Strata Schemes.