

**Submission
No 176**

**ADEQUACY OF THE REGULATION OF SHORT-TERM
HOLIDAY LETTING IN NEW SOUTH WALES**

Name: Mr David Glover

Date Received: 9/11/2015

Submission to the Inquiry into Adequacy of the regulation of short-term holiday letting in New South Wales

NSW Legislative Assembly Committee on Environment and Planning

Dear Committee,

My submission relates principally to item (e) of the terms of reference: "Regulatory issues posed by short-term letting including customer safety, land use planning and neighbourhood amenity, and licensing and taxation."

Background and introduction

I live in and chair the strata committee for a 14-apartment building in a Sydney inner-city suburb. I have had both positive and negative experiences with short-term letting, in particular via the AirBNB platform.

Although my experience and input relate specifically to apartment dwelling, I believe similar problems will arise in any predominantly residential area, particular high and medium density.

First, the positive. I know a number of people who have been letting their spare rooms without any problems for either them or their neighbours. I have let my own apartment for brief periods while travelling. Again, without problems.

On the other hand, here are some of the problems we experienced while one of our building's apartments was used exclusively for short-term letting via AirBNB for some 18 months:

- A new group of "guests" arriving once, twice or three times per week. Sometimes at midnight. They'd gather in our entrance trying to decipher their "host's" instructions for retrieving the keys from the lockbox she'd put inside her letterbox. This could take anything up to 20 minutes, blocking our street entrance in the meantime.
- The apartment was offered for up to seven paying guests (in three bedrooms), though we know of several instances where this was exceeded. Part of its appeal on AirBNB was the relatively low cost per person when it was fully booked. The largest group we encountered was 20. A particular specialty was wedding groups...coming before and after the wedding and reception. And we all know how quiet and restrained wedding parties are.
- Other owners finding all the visitors' parking and, occasionally, their own parking spaces filled with AirBNBers' cars.
- All this happened week-in, week out. One-off events included being woken over the building's entry intercom by a "guest" who'd locked himself out; another "guest" who said "no, I won't move my car out of your spot" and a vomiting bridesmaid at our front entrance. Charming.
- Attempts to discuss this and seek some moderation led to long lectures on the "sharing economy" from the owner in question and suggestions we should "call her if there's a problem." She didn't understand that she was "sharing" our rights in our homes and that she shouldn't let problems arise.

- She told us she was “entitled to maximise the return on her investment” and seemed incapable of acknowledging that her return was coming at our direct and immediate expense (and, I suspect, an ultimate reduction in the value of all our investments).

In dealing with these problems we incurred countless hours of strata committee and strata manager time, significant legal costs and the cost of a video surveillance system to help manage the situation.

Ultimately we were successful in gaining the owner’s agreement to cease her activity, but not without a lot of rancour and expense.

The heart of the problems

There’s a fundamental conflict between the expectations of holidaying visitors and the rights of the residents.

The visitors were paying top dollar to have a good time and behaved as they would in a resort or pub: making as much mess and noise as they liked. But for them it was even better than a hotel, with no staff or management to ask them to calm it down or, ultimately, evict them.

The residents merely wanted the “quiet enjoyment” the law entitles them to.

Suggestions on improving things

First, end the conflation of two different activities

Most importantly, we must stop referring to “short-term lettings” as though they’re all the same.

I believe there are two clear categories of activity:

First is part-use: either letting spare bedrooms of an occupied home while the owners are in residence or the occasional letting of an entire home (e.g. a ‘house-swap’ or short-term let while on holidays). My understanding is that this is currently legal.

The second is predominantly commercial use: where the entire property is let. I believe this meets the planning laws’ definition of “tourist and visitor accommodation”.

In the first, the visitors’ behaviour is guided and/or moderated by the owner. In the second, there is no such guide. As a result, visitors will behave as they see fit. And if they’re on vacation, particularly with friends, they’re there to have a good time. Which generally doesn’t mean a quiet game of chess. In our experience it usually means long, riotous parties. Loads of fun for them. No fun for us.

Of course the line between these can be blurred, but this goes to the heart of determining whether an individual’s activity is reasonable in the context of a residential dwelling or whether they’re conducting a business that needs appropriate zoning and approval.

AirBNB’s political lobbying only ever refers to the first. But their customer advertising emphasises the second. I suspect this is also where they make most of their money.

Suggestions for better regulation

Personally I don’t think this needs a load of new rules. What it needs is for the existing rules to be clearly stated and promptly and economically enforced.

If we are going to add or clarify rules, I’d like to offer the following suggestions:

A simple, clear statement of what you can do without a DA.

Let's draw a line on what's reasonable use for a residential dwelling without further approval.

As a suggestion, I'd say it's okay to:

- Let up to half your bedrooms while the permanent residents are at home.
- Let your entire dwelling on up to six occasions per year for up to two weeks at a time. Note that the number of occasions is more important than the total time. A maximum of 90 days per year (as was suggested recently in San Francisco) still allows you to let your home every weekend.
- Tight limit on numbers and/or frequency of letting. While dwellings are typically approved for two adults per bedroom, I believe this is too intense for visitors. I would suggest limits of two for apartments and four for houses.

Beyond that, a DA is required.

Once something turns into the main use of a property, I think it needs more detailed assessment.

Special rules for apartments

Having experienced its problems in our building, it's clear that tourist and visitor accommodation is not compatible with every building. And the problems increase dramatically when the owners involved are not prepared to manage their lettings properly.

But rather than attempt to ban it altogether (by state law or strata by-law), I'd suggest it being considered case-by-case on this basis:

- Owners applying must include their proposed numbers and management approach.
- Each individual application to be approved as a special resolution (i.e. not more than 25% opposed to it) at a general meeting and to be valid for not more than 12 months.
- This creates the opportunity for people to do it properly, with the simple incentive that they'll lose their right to do it if they don't.
- Owners to cover additional costs (security, strata management etc) through increased levies.

This also creates the ability to determine what "good management" looks like, building by building.

In conclusion

I think short-term lettings, properly managed with due consideration for neighbours, are a positive addition to our communities. In particular by enabling extra accommodation at peak times, not to mention supplementing people's incomes and providing more jobs.

However this must not interfere with residents' rights to quiet enjoyment of their homes, buildings and neighbourhoods.

Any solution must balance these potentially (but not necessarily) competing interests.

Thank you for the opportunity to make this submission. I hope it's helpful.

David Glover

9 November 2015

[REDACTED]