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Tuesday 28 February 2017

The Secretary
Environment and Planning Committee
Parliament House, Spring Street
EAST MELBOURNE VIC 3002
Email: ownerscorpbill@parliament.vic.gov.au

Dear Secretary,

We are writing in relation to the Inquiry into the Owners Corporations Amendment (Short-Stay Accommodation) Bill 2016 and make the following submission.

The Southbank Residents Association (SRA) is a not-for-profit organisation run by volunteers advocating in the interests of our members. We aim to support the interests of all who live or work within Southbank on matters including planning and development, open and green space, high-rise living, heritage and preserving the 'livability' of Southbank. We listen to local and community concerns and ensure our voice is heard across all levels of government.

It is on this basis that we consider it our duty to comment on the Owners Corporations Amendment (Short-Stay Accommodation) Bill 2016.

Southbank residents and SRA members have expressed their dissatisfaction with some short-stay operators in their buildings and we have been aware of the complexity of issues faced by residents and OCs. We are also aware that some of the short-stay operators reside in Southbank and therefore their needs must also be considered as residents and business owners in Southbank.

With VCAT ruling that an Owners Corporation rule prohibiting short-stay accommodation was invalid, it appears the short-stay accommodation industry is here to stay; for now at least. If they are to stay, then regulations must be drafted and implemented in order to effectively govern them.

Owners and occupiers of residential apartments in Victoria are currently regulated by the Model Rules for an Owners Corporation as set out in the Owners Corporations Regulations 2007. It should follow that short-stay occupants are bound by the same rules, but what if they fail to comply?

We need to ensure Owners and Owners Corporations have powers to respond in cases where short-stay guests have been unruly, caused damage to property, behaved inappropriately or otherwise interfered with the ability of other lot owners to use building amenities.

SRA understands the proposed Bill provides an avenue for residents and OCs to address their concerns, hence bringing short-stay occupants in line with the same rules as other tenants in the building.

We also understand the effect of this Bill is to extend the dispute resolution procedures in the *Owners Corporation Act 2006* to include short-stay accommodation disputes. This includes imposing a civil penalty of up to \$1100 on short-stay occupants for breaches of the *Act*.

As far as we know, short-stay operators and residents are in favour of the intent of the Bill. Having said that, we're not convinced this Bill has been thorough enough, and look forward to the final report of the Committee later in the year. We also look forward to additional opportunities for consultation and ask the Committee to give us a greater time frame in which to prepare a response.

In conclusion, we would like to acknowledge that while SRA is seeking a fair and equitable outcome for all in relation to this Bill, review and discussion of this Bill raised many complex issues and as a committee, we were unable to reach a unanimous consensus on how best to represent our members.

Given the number of members we have and our Southbank Owners Corporation Network comprising 20+ apartment buildings amongst its members, we would like to make ourselves available to the Inquiry to assist wherever possible with regard to consultation as outlined in the Terms of Reference.

Tracey Allen & Joe Sarraf
(on behalf of)
Southbank Residents Association

Appendix A: Comments from Southbank residents regarding short-stays and this Bill

Appendix A

Comments on the Bill	Comments on what to include in the Bill
<p>The Bill should include provisions allowing OCs to determine what is acceptable when it comes to short-stay occupants within the building and controlling such things as:</p> <ul style="list-style-type: none"> - Access to common areas, - Access/use of common amenities and facilities (OCs should be allowed to prevent access as they deem fit given the behaviour of a short-stay occupant or their guests), - Prioritising amenities and facility use to residents before short-stay occupants, - Allowing OCs to apply fees for providing an extra-service in dealing with short-stay properties where Reception/Concierge is utilised as a "hotel" style service by short-stay providers and occupants, - Limit the number of occupants and guests that are allowed to reside in the short-stay accommodation as it may be over what is considered safe (each building to determine their own quota based on safety requirements) 	<p>Allow OCs to determine on an annual basis extra fees that are to be charged to owners/agents of short-stay apartments to recover additional costs that would otherwise not have been incurred (insurance premium increases, increase in maintenance/cleaning, increase in administration costs related to managing breaches, complaints and the VCAT process)</p>
<p>The Bill should protect those raising complaints from any costs that might be incurred by the short-stay operator/agent for appearing at VCAT regardless of the outcome or duration or number of instances raised at VCAT.</p>	<p>Allow OCs to block fobs/access cards/keys that are given out by short-stay providers or their agents to occupants/visitors/cleaners who are not registered with the building and who have not completed the mandatory building induction</p>
<p>Use of words in the Bill such as "reasonable" and "substantial" make it difficult to interpret. Something firmer is expected, particularly around noise levels and prescribed times for acceptable noise.</p>	<p>Allow OCs to enforce a Register of short-stay apartments with full details of provider</p>
<p>The onus will remain on the person raising the complaint to provide evidence in support of filing the breach, especially in regards to VCAT and VCAT orders. A lot of the time this is not possible, especially when it comes to noise disturbances, a recording using a mobile phone will not serve to prove sufficiently for example a loud noise in an adjacent apartment</p>	<p>The Bill should include a registration process for short-stay operators (either with the OC, Consumer Affairs Victoria or the local council) to improve visibility and eliminate rough operators.</p>
<p>The Bill will add a lot of administrative burden on OCs to handle and manage complaints</p>	<p>VCAT is a lengthy process and costly, the Bill does not provide for costs determination should VCAT rule in favour of the short-stay provider</p>
<p>The Bill doesn't go far enough to empower individual OCs to make determinations in their own buildings.</p>	
<p>Comment from a Southbank short-stay operator</p>	
<p>I have owned and operated a short stay apartment at in Southbank and during that time I have had over 125 bookings completed. I have had zero complaints from neighbours or the owners corporation and a long list of very happy visitors to Southbank and the State. I work full time, but the apartment provides a second source of investment income. Despite what many people assume, it is far from easy money.</p> <p>I personally welcome safety regulations, but giving additional powers to owners corporations is dangerous. The OC Act already allows for breach notices and penalties for noise and other disturbance, so I hope that any further regulation is minimal and that people like me are allowed to get on with their lives and manage their investments as they see fit.</p>	
<p>Comments on short-stay operators</p>	
<p>Operators should screen their guests and/or prohibit groups of young noisy people into a small apartment (more than should be allowed)</p>	
<p>Some short-stay operators are able to co-exist within an apartment building with little to no negative impact on the surrounding residents.</p>	