

TRANSCRIPT

STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

Inquiry into the Owners Corporations Amendment (Short Stay Accommodation) Bill 2016

Melbourne — 24 March 2017

Members

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Mr Cesar Melhem

Mr Richard Dalla-Riva

Mr Daniel Young

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Mr Greg Barber

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Mr Jeff Bourman

Mr Simon Ramsay

Ms Colleen Hartland

Staff

Inquiry Officer: Mr Matt Newington

Witness

Ms Antoinette Hall (sworn), director, OC Pride.

The DEPUTY CHAIR — I would like to extend a welcome to our next witness, Ms Hall on behalf of OC Pride. The committee is hearing evidence today in relation to the inquiry into Owners Corporations Amendment (Short Stay Accommodation) Bill 2016, and that evidence is in fact being recorded by Hansard.

All of the evidence that is taken at this hearing is protected by Parliamentary privilege, and therefore you are protected against any action for what you say here today. But if you go outside and repeat the same things, those comments may not be protected by the same privilege.

What I would now invite you to do is to address the committee for say five or ten minutes, after which time we will ask some questions. We may leap in throughout the course of what it is that you say, just that it may ebb and flow a little. And following that, we can ask any questions with the remaining time that we have.

Ms HALL — Okay, thanks very much for inviting me today. I have prepared a brief on what I would like to comment about before you bombard me with questions.

The DEPUTY CHAIR — We are not going to bombard you, it will be a gentle tide.

Ms HALL — Thank you. My name is Antoinette Hall, I have been the strata facilities management industry for almost 20 years. I worked in this industry in Australia and in the UAE in various capacities such as strata manager, director, CEO, consultant, and now I run my own business, OC Pride. I have worked on many high-rise apartment buildings, especially in Victoria, and understand the issues that occur on site in high density living.

One of the buildings I manage is the iconic Eureka Tower, a 92-storey building that combines retail, residential, and of course level 88 Skydeck and level 89 function centre. Eureka Tower has an extensive budget, in fact for the last three years Eureka Tower residents have spent in excess of \$900 000 each year for security and concierge services in the building. That is \$2.7 million in three years from 2014 to 2016 to maintain the security and integrity of the building. This does not include the additional security cameras and other security equipment, capital expenses and maintenance of such homes in the building, which equates to a further \$50 000 per annum. This also does not include the security services and equipment deployed by Eureka Skydeck level 88 and level 89, as their costs are treated separately.

Due to its iconic status and potential terrorist risk, we have been visited by various Victoria Police entities, including the normal Victoria Police on many occasions, due to disturbances and other events; security and organised crime intelligence units; intelligence and covert support command; state event planning unit and special crimes department. We actively participate in the South Bank Safety and Security Committee to understand the issues that occur around the South Bank area and how we can address those issues.

The DEPUTY CHAIR — What I might do, Ms Hall — I note that you appear to be reading from a document that the Secretariat has provided us today. We can incorporate that into the body of what has been received and it will be considered by this committee, if you would like.

Ms HALL — Yes.

The DEPUTY CHAIR — I note that you then go on to say — to address short stay issues faced by Owner Corporations, effect on residents and possible solutions as well as points for consideration.

Ms HALL — Sure.

The DEPUTY CHAIR — Noting that you should appreciate this is taken as read, what would you like to bring to our attention specifically in relation to that material?

Ms HALL — I believe that one of the things that fails to be addressed is the issue of communities within these high-rise residential apartment buildings. It takes a long time to build a community within our high-rise development because not everybody sees each other during the day. It is not like a normal neighbourhood environment. And when we have short stay people coming in and out of the building, it really disturbs the confidence of people in those apartments. They now need to lock their doors on their floors, whereas before they never really had to.

And then there are things that — there are things that happen, like swapping of security swipe keys. I mean, the building is secure. We almost monitor our own security within the building, spending so much money. But still we have short stays who come in, they swap security swipes with each other, they leave their swipes in mailboxes and leave those mailboxes open, so anybody else can come in and take those swipes. Sometimes they place them in the incorrect mailboxes. They are not screened by anybody, so they might fill out a form, but no one knows what they have done in the past. Not like a real estate agent, they can do reference checks and things like that.

The DEPUTY CHAIR — How do you know that that's because of short stay and not because of other arrangements whereby people may be leaving swipe cards for family or for —

Ms HALL — We check them all, we check every single one.

The DEPUTY CHAIR — But how do you know that is not just because of a standard visiting arrangement and it is a short stay?

Ms HALL — Because we have a database that provides us with information on who is doing what in the building. We take a really close look, and — and try and see how many people are using swipes, how they are being used. We've got a system that allows us to go through a whole record of what swipe is being used and how many times it is being used. And then we monitor the people that come in.

Because many times people will come into the building and they'll say, 'I'm here to pick up a swipe, I've got a short stay'. They tell us a lot of the time. And we go, 'Well we don't — we don't hold any keys'. 'I'll just go to the mailbox and have a look'. And they will go through mailboxes and find their mailbox and find a key. Sometimes that key won't be there. Our security team might have found a mailbox open with a key in it, and they have taken that key and taken it to security.

So that is how we are able to identify. We also have our team go through the internet and look for ads on particular units. And we are able to identify from those ads that are either — Airbnb or short stay accommodation. We even know which apartment it normally is based on the photos that they have taken within their apartment. We've got people that have been at Eureka Tower for 10 years, and they know if there is a view taken from a particular point of view — from a particular point, what level it is on and what direction it is facing. It doesn't take much to put two and two together.

The DEPUTY CHAIR — So do you have any data on that? I mean you have given us a lot of anecdotal evidence about the way in which short stays are having an impact on security and other arrangements. Has that actually been gathered into any body of data around the extent to which this is happening with Eureka?

Ms HALL — No, not really. We don't record that sort of — we don't have many. We probably have about 10 in our whole building of 575 tenants.

The DEPUTY CHAIR — Ten of what?

Ms HALL — Ten short stay accommodation in our building. However I am not here just because of Eureka Tower, I am here from the whole body of owners corporation managers. Because I have seen what has occurred and like I have said we are in a society now where crime is the norm. People are trying to come in, and sometimes they will set up for a short period of time, and we have had people over a weekend doing prostitution in the building. And that is not a joke. That's why we have had all these police in there, because with such an iconic building, people go, 'Oh, you know, it is really kind of nice building to be in, it is upmarket'.

And we know from the amount of visitors that person will have. We've got concierge on the front desk and security on our front desk 24/7. If someone is asking for someone 10, 15 times a day, we will investigate and find out what is going on in that apartment.

The DEPUTY CHAIR — So you said you have not got many, and you said only about 10 short-term accommodations in the whole building.

Ms HALL — Yes.

The DEPUTY CHAIR — The sorts of things that you just talked about whereby premises have been made available for prostitution over the course of a weekend, how do you know whether that is happening under short stay accommodation or under other arrangements?

Ms HALL — Cause these were short stays.

The DEPUTY CHAIR — Okay.

Ms HALL — These were short stay accommodations.

The DEPUTY CHAIR — So they come within that 10.

Ms HALL — I went and asked the people what they were doing waiting in the foyer. I am not going to sit there when I see people coming in, I will just go and ask them what are they here for. And he said, 'I'm here to have a massage'. And I asked, 'What sort massage?'. And the women came down to tell me off for having a go at their client. So I mean this goes on.

Mr DALLA-RIVA — So in that circumstance, what — you knew this was happening?

Ms HALL — Yes.

Mr DALLA-RIVA — You have asked one of the clients — the B clients.

Ms HALL — What did we do?

Mr DALLA-RIVA — What did you do?

Ms HALL — I rang the agent who put them in. Because they went through an agent to get in their short stay.

Mr DALLA-RIVA — Then what happened?

Ms HALL — Because not all of them are Airbnb or Stayz, or — —

The DEPUTY CHAIR — There is a real estate agent they work through.

Ms HALL — Yeah.

The DEPUTY CHAIR — Right.

Ms HALL — But they were not screened. So even though you've got Stayz and Airbnb and all these accommodation places, you've also got people like Corporate Keys, just putting people in. There are all these companies.

Mr DALLA-RIVA — So in that circumstance would this legislation have made any difference?

Ms HALL — I think so, yeah.

Mr DALLA-RIVA — In what way?

Ms HALL — Look, from my point of view, I would like to see three months as a minimum.

Mr DALLA-RIVA — No, I am talking about the legislation. In the circumstance that you have described, a real example that you are giving to the committee — how do you see this legislation as helping you on that particular occasion?

Ms HALL — Well on that occasion, probably nothing. Because I rang up the agency on the weekend, and I said, 'You need to get these people out of here, this is what they are doing'. We are extremely proactive there. But what I am saying happens at Eureka Tower does not — we are able to control it because of all the people we have there and the amount of money we spend.

There are so many buildings around the city that don't have that ability. They don't have \$900 000 to throw into their budget every year to maintain that security integrity of the building when there is a party. And all this travels in residential buildings, it travels a lot.

We've got balconies at Eureka Tower that adjoin bedrooms. And when people are out there, they are drinking, they are smoking, they are speaking really loudly, as you do when you have a few too many drinks. Our security go up and talk to them, because our residents are too scared to. That is where the dynamic changes on a floor. You get residents who have been living there for 10 years — I've got a guy there who is 90. I don't want him to come out of his apartment if someone is partying and they are drunk, because he is not safe. We are able to do that because of our budget.

The DEPUTY CHAIR — Have you had any sort of party house issues arise? One of the things that has come up repeatedly on the airwaves and in the newspapers, and in the public discussion around short stay, is the availability of properties for the purposes of say 48 hours of non-stop ruckus that involves 150 people being initially in one small space, and then spilling out into broader areas. Has that occurred in your building?

Ms HALL — It would not happen in our building, no.

The DEPUTY CHAIR — Okay.

Ms HARTLAND — How do you stop it?

Ms HALL — We just watch people that come in. And we have a rule that — say if you have got 10 people, more than 10 people, you need to advise our building management team.

So from that point of view we do really strictly self-manage because we've got security there all the time. But other people don't have that.

The DEPUTY CHAIR — So is your evidence then that short stays should not in fact operate in high-rise towers such as the Eureka building? You've talked about how in your submission short stay is here to stay, and then you put out a number of possible solutions. And the first line of that says:

We all understand short stays are here to stay, but does it need to include every apartment in every apartment building in Victoria?

And what I want to do is just flesh out where the line is for you.

Ms HALL — Yeah. The line is for me if you have your own home out of strata, use it for short stays, no problem. Your place, your space, your decision. However when you are talking about other people's homes — the minute someone steps into that front of that building, that is someone's home. And you are allowing people to come into that home when you have got kids, the elderly, babies — you are allowing those people to come into your home to just roam around a building.

The DEPUTY CHAIR — So you put that in your submission, around your home out of a strata, you should use it for short stays, no problem. And then you go on to say, 'Your place, your space, your decision'.

Ms HALL — Yeah.

The DEPUTY CHAIR — What, in your view, does the Bill do to actually challenge some of the problems that are inherent, at least in your experience, not just with Eureka, but with other properties?

Ms HALL — One of the things I heard about the Bill that I — and maybe I misread it — was whoever wrote it put in a set of rules that short stayers must adhere to. And I actually find that a bit — well, it is an insult really, because each building has a set of rules, and they are quite extensive some of those rules, and they have been thought out properly before the building was even established. And yet you are saying that those residents that enter have to abide by those rules. So what happens to those other 30 rules? Do they have to abide by them as well?

So I am saying that if someone comes in as a short stay, no matter what, they should be abiding by the set of rules for that building. Which I don't think is clear in that Bill. The other issue was who pays for people to make a profit? It should not be the other owners. If owners are paying a \$4.5 million budget at Eureka Tower, why

should those owners have to now fork out extra money for the additional security cameras, the additional security, the cleaning up of vomit in lifts and car parks?

I won't even go into some of the other things that have happened, but — —

Mr DALLA-RIVA — Why not? Tell us.

The DEPUTY CHAIR — That's right, this is evidence.

Ms HALL — Defecating in stairwells, you know. They are the sorts of things that we get. We don't catch everything, believe me, we don't catch everything. But we know who has done it because that is the short-term on that floor, and everybody else we have known for five years.

So that is the evidence that we base around it.

Mr DALLA-RIVA — So there was evidence prior about providing a bond, a suggested bond for short-term stayers. What's your view on that?

Ms HALL — My view would be that anybody who does a short stay pays a percentage of the budget.

The DEPUTY CHAIR — Sorry, anybody meaning an owner of a property, or anybody who is an occupier?

Ms HALL — No, the owner. The owner of the property. I believe they should be paying for their ability to make a profit on a residential building. I know there are buildings being built at the moment where the contract basically says, 'We've got a section for short-term'. I know MICM are doing that, you know. 'We've got a short term apartment as part of this building.' No problem. Your contract, you have bought into that. And not a problem.

But people have bought into residential apartment buildings where their rules specifically state, 'No commercial business or trade unless you own a commercial spot in the building'. Then that is what they have bought into. And now that contract becomes really null and void because they are in a building that is now commercially based.

I mean things like — and I know the other gentleman before was speaking — things like exits, pathways of exits in a stair emergency. There are 92 levels there. People who do not understand the rules of the building — and they don't, because they come in on short stays — they are not there to know the rules of the building. They will go into the rubbish room and put a heap of stuff there. Now, that is our travel path to get to the stairwell if there is an emergency in the building.

They are the sorts of things that are not taken into consideration. When it is a hotel, you have got fire evacuation everywhere, your class of building has been built differently to that of a residential apartment building.

The DEPUTY CHAIR — So are you saying that higher fees should be levied on owners corp members for short stay operation?

Ms HALL — I do, I believe that they should be, yeah.

Mr DALLA-RIVA — What percentage?

Ms HALL — I think that is a percentage that needs to be a percentage of the budget in some way. Because it is not only the — —

Mr DALLA-RIVA — So a \$4.5 million budget for you — —

Ms HALL — Yes.

Mr DALLA-RIVA — What's your suggestion?

Ms HALL — It is a big budget. I think it really depends — —

Mr DALLA-RIVA — It is quite a lot.

The DEPUTY CHAIR — It is site specific?

Ms HALL — Yeah, it really needs to be site specific.

The DEPUTY CHAIR — And again what price do you put on amenity though? What price on quiet enjoyment? This is one of the challenges that we have in the evidence that we are looking at, is the extent to which you might have irreparable damage — as I indicated in a question to earlier witnesses — to a lift well, to a foyer, to shared entry and exit points, and noise. And that that might then cause the same amount of distress or upset to somebody, whether they are living in a building of \$4.5 million budget or in a six unit building.

Ms HALL — Absolutely.

The DEPUTY CHAIR — So what would your view be in relation to that?

Ms HALL — Well, I was listening to the other guy before, and he was talking about having a bond. The bond goes to the owner. How are you going to get that bond off the owner for the owners corporation? How does that happen? I mean in a lift — to scratch a piece of wood in a lift — just as willy-nilly, as they do — to take it off, have it all re-sanded, bring it back — that is a thousand, maybe two thousand dollars.

We had a guy drop alcohol in our foyer the other day cause he was drunk. \$1500 to remove that. You know, these are not cheap items. Yes, Eureka is different, but there are lots of expensive residential buildings going up at the moment. Look at Melburnian, that is a very expensive apartment building as well, you know. There are lots coming up and around. And as you say, Honourable Richard — —

The DEPUTY CHAIR — You got her to use your title! There you go, the Honourable.

Mr DALLA-RIVA — Hear, hear, the Honourable. I knew I was a minister for some reason.

Ms HARTLAND — There you go.

Ms HALL — The thing is, people come to these — they shift from a house to come and live in an environment that is safe, that is secure, and that everything is pretty much done for them. And when this starts to occur, it can be a real detriment to those living there, it can become really difficult to manage from a building perspective because you've got all these issues. And people won't necessarily come and talk to us until that person has gone, because they are scared.

The DEPUTY CHAIR — I might just ask in relation to an earlier witness who proposed a code of conduct and a further period of two years being able to be made available for the purposes of educating owners corporations, residents and occupiers of buildings around the minimum standards that should apply. Do you have a view in relation to the way that self-regulation can work or not?

One of the challenges that we have in that proposition is how do we maintain an acceptable standard of quiet enjoyment for people who live in these buildings whilst also having something that is enforceable?

Ms HALL — It is a difficult one because these people are very transient when they come and go. So by the time they have gone, the damage has been done. And there are some owners that I would ring directly and say, 'This is what happened in your apartment'. There are also some tenants we have found that have been sub-letting their apartment to short stay guests, and their owner does not know. So we go and tell the owner.

The DEPUTY CHAIR — Yes.

Ms HALL — And they normally will get a notice to move out, or whatever. It happens so quickly with a short-term stay. That is the problem that you've got. It is not a hotel where you can go up, 'You are causing a real problem' and really shut it down. Owners corporations do not have that ability outside of Eureka Tower. They do not have that ability to do that, to shut it down that weekend when it is happening. That is what hotels do, not what residential apartments are catered to do.

The DEPUTY CHAIR — So something more is needed then, than a code as far as voluntary compliance is concerned?

Ms HALL — Yeah, I think so. I mean if you do not have a building manager in a building, or a security guard in a building — and many do not — on a weekend, how do you get someone to sit there and shut a party down, unless it is the police? And the police are very busy.

I do these forums with the police and they are always saying — on a weekend they have got lots of other things going on, and the noise disturbance in a building is really the last thing that they are going to come to.

Ms HARTLAND — You've talked about within Eureka Towers that there are roughly 10 short stayers out of 500.

Ms HALL — Yes.

Ms HARTLAND — But I understand you have experience of other buildings. So when you are talking about possibly a third of all of the apartments in a building are short stay, how is that managed?

Ms HALL — Freshwater Place is one of them. I know the building manager there at Freshwater Place, and we have quite a few conversations. He also comes to the Southbank security forums. He has about 70 apartments there on short stays, and he has a lot of issues.

The DEPUTY CHAIR — Seventy out of a total number of what?

Ms HALL — I think they've got about 300. It is a lot. He actually said to me, 'I think they've moved from you to me', and I said, 'Well, we have got lots of strict stuff going on there, and we handle it at the time'.

Ms HARTLAND — So you talked about another building that is actually being built at the moment, and people know that there is a percentage of it that is short stay.

Ms HALL — Yeah.

Ms HARTLAND — And is that going to be — have some kind of separation between — —

Ms HALL — I do not know. It is actually a Central Equity building.

Ms HARTLAND — Right.

Ms HALL — And is also run and managed by MICM. So Central Equity are the developers, and MICM are part of Central Equity, but then manage the site. So they have built a building, it is on the corner of City Road and Power Street. And if you just turn from City Road going left into Power Street, you will find South Bank Short Stay Accommodation — a big sign. So those people know that that has happened in that building. Which is absolutely fine cause you bought into it. I think, 'Yeah, okay, go ahead'.

But when it is someone's home and they have bought it as their home, and then they are thinking, 'I can leave my door open' — I've had to tell people, 'Don't leave your door open to your apartment any more cause we don't know who's on the floor'. And that puts a bit of unease into people as well, especially the older people and people with young kids.

Mr DALLA-RIVA — I am going to go to the legislation and some real live application. So I am going to go back to my Etihad experience. I arrive on the Friday night and I'm only there till Sunday night or Monday morning. I, as a short-term resident, create all sorts of behaviour. All the things you have outlined — perhaps not the prostitution, but all the other things.

Ms HALL — I hope not.

The DEPUTY CHAIR — But you are defecating in the stair well.

Mr DALLA-RIVA — But I may — —

The DEPUTY CHAIR — You may defecate on the stairs.

Mr DALLA-RIVA — I may defecate in the stairwell. Thank you, Deputy Chair.

The DEPUTY CHAIR — I hope that is on *Hansard*.

Mr DALLA-RIVA — It is. I am trying to give a real life example, and the evidence has been unfortunately that does occur.

Ms HALL — Yeah.

Mr DALLA-RIVA — So come Monday, I am gone. There is all the damage left behind, whether it be the cleaning, the repair of the lifts as you have outlined — there is a whole range of things.

The legislation talks about — and I am going to the legislation here: notice to rectify a breach, so short-term accommodation arrangements complaint. If the owners — so this is about the owners corporation taking action to deal with the complaint. Now, it does not necessarily say it is a complaint by the resident. It may well be that you — —

Ms HALL — It might be a building management standard.

Mr DALLA-RIVA — It might be the building management that says, ‘We’ve gone through and we’ve assessed this as being the problem’.

Ms HALL — Yeah.

Mr DALLA-RIVA — So that is probably the first thing that concerns me in the legislation for the secretariat — he is organising his footy tickets for this weekend. So that is probably the one thing that is not clear in the legislation. The second one is then the notice goes to the individual, but they are gone.

Ms HALL — They are gone.

Mr DALLA-RIVA — But then it goes to the owner. ‘must give notice of the allegation to the lot owner’ — this is under section 159D — ‘Notice to rectify breach—short-stay accommodation arrangement complaint’:

If an owners corporation decides to take 20 action under this Part in respect of an alleged breach by a short-stay occupant, the owners corporation—

- (a) must give notice of the allegation to the lot owner and the short-stay provider (if the short-stay providers is not the lot owner)

Now, the short stay provider, I gather, is the — —

The DEPUTY CHAIR —

... the owner of a lot or part of a lot that is leased or licensed by the owner to a person under a short-stay accommodation arrangement; or

- (b) a lessee or sub-lessee

— to go to the evidence that you have given —

... of the owner of a lot or part of a lot that is leased or licensed by the lessee or sub-lessee to a person under a short-stay accommodation arrangement; or

- (c) an agent provider

Mr DALLA-RIVA — Right.

Ms HALL — Which we do.

The DEPUTY CHAIR — the agent situation.

Mr DALLA-RIVA — But on this occasion it is to the short stay provider, which could be Airbnb or — no? Am I — —

Ms HALL — Well, it could be, and how do you find the person for — —

The DEPUTY CHAIR — An agent provider.

Mr DALLA-RIVA — Or an agent provider, okay.

Ms HALL — Well, how do you — with us, if it is like a Corporate Keys, it is easy.

Mr DALLA-RIVA — Yeah. So I'll continue. It says: 'may give notice of the allegation to the short-stay occupant'. Well, that may well be — they are gone.

Ms HALL — Gone, yeah.

Mr DALLA-RIVA — Okay, and 'May'. So that's probably why it has got 'May'.

The DEPUTY CHAIR — Yeah.

Mr DALLA-RIVA — And then the notice specifies here alleged breach, and it goes on. And then it says:

... the owners corporation may decide to apply to VCAT to resolve a 20 short-stay accommodation dispute in relation to the breach and may seek one or more of the following orders—

Now this is why I am not too sure —

(a) a prohibition order under section 169D;

(b) an order for a civil penalty under 25 section 169G;

Now, these are all additions in the Bill. So what I'm trying to get at — does it allow then for the owners corporation to go to the VCAT and say, 'You are now prohibited, owner of apartment 382, from no longer having short-term accommodation'? Is that what the Bill allows?

The DEPUTY CHAIR — They can determine a breach, and otherwise apply a penalty.

Mr DALLA-RIVA — But that is about it.

DEPUTY-CHAIR — So under 169G.

Mr DALLA-RIVA — Yeah.

The DEPUTY CHAIR — And they can provide a prohibition order. So there is a discretion there under 169D. And then a loss of amenity compensation order, which deals with the challenge of issues around the sorts of disgraceful behaviour that you outlined in your building's situation.

Mr DALLA-RIVA — So then you could claim against the owner compensation for cleaning and all the other things that I have done over my beautiful weekend.

The DEPUTY CHAIR — So it is always behaving in a manner that interferes — —

Mr DALLA-RIVA — I am just trying to get the thing right.

The DEPUTY CHAIR — Causes hazards et cetera.

Mr DALLA-RIVA — Because your evidence is now getting into the legislation, which then has to be applied in the real world.

Ms HALL — So one of the other parts of the legislation which is in the Owners Corporations Act, is that any VCAT hearings must be noted at the AGM. And if you were going to note all those VCAT hearings at the AGM, then basically any potential purchaser has the right to see all those VCAT hearings at an AGM. So if you've got a list of VCAT hearings that have been listed, and an owners corporation manager does their report for the AGM, I can go in as a potential purchaser and go, 'Oh, look at how many breaches they've had there — you know, I'm not going to buy into there because they've had so many breaches', or 'I'm going to try and wangle the price down'.

So I think once you start playing with that whole VCAT scenario, there is a long process and the person's long gone, and the owner's probably had another three people in there by then. And by reporting each of those VCAT instances, I believe you are devaluing the property and devaluing the building.

The DEPUTY CHAIR — Isn't that in fact though — I think you are referring to 159F which is the report to the annual general meeting?

Ms HALL — Yes.

The DEPUTY CHAIR — And that there is a requirement that the owners corporation must report in relation to a number of complaints, nature of complaints, whether anything — any action was taken, the nature of the matters, and the outcome of each action. Isn't that part though of making sure that owners corporations do what they need to do to encourage everybody to do the right thing, as well as getting a better level of transparency and response to concerns by individuals who may live there and expect quiet enjoyment? Isn't that also part of the buyer beware process on due diligence around potential buyers?

Ms HALL — Absolutely. And there is no issue with doing that. But I think when you get a listing and there might be that many VCAT hearings, you are going to sit there as a potential purchaser and think, 'I don't want to pay what I paid — what I was going to pay for that place'.

Mr DALLA-RIVA — But then the counter for that would be the — 'If I'm going to go and retire there'

Ms HALL — You want to know.

Mr DALLA-RIVA — You want to know — —

The DEPUTY CHAIR — That's right.

Mr DALLA-RIVA — That there is at least some level. Would it not then put the pressure back on the owners corporation to not just say, 'Oh, well, we'll deal with that, they are gone', but to actually enforce orders?

The DEPUTY CHAIR — Say, 'We're not doing our job properly'.

Ms HALL — Yeah. And I think there is no harm in that, I think it is just the timeline that could be faced by doing it.

Mr DALLA-RIVA — Okay.

Ms HALL — Because VCAT is not a quick process. It also puts further costs on the owners corporation, because if a manager is going to go and have a hearing at VCAT, they are going to be charging the owners corporation for their time to do that, okay? So that's — —

Mr DALLA-RIVA — I have been there personally for one of my investment properties. So it is a long process. It was a house by the way, so it was all good.

The DEPUTY CHAIR — Right. I was not actually going to ask.

Mr DALLA-RIVA — And I won't tell you which one. But it does take a lot of effort to undertake that. But

Ms HALL — Look, I — —

Mr DALLA-RIVA — So in 169D prohibition order: 'VCAT may make an order prohibiting the use of a lot or part of a lot for the purpose of a short-term accommodation arrangement'.

So that's a fairly substantial whacking stick to somebody who has — despite having numerous engagements with you as an owners corporation controller, and said, 'Listen, you keep breaching it, we keep having to clean up after you — we're now going to make an application so that you cannot use that'. And all of a sudden their investment property becomes useless for at least the period of a prohibition order. Do you think that would be a fair whacking stick for people to be ensuring they behave?

Ms HALL — I think it is good, but I think you need to have a limit as to how many — you know, to what point can you then take it to that. Are you saying you can do it every time? Or you do a breach and then next time you can go? Or can you do one straightaway?

The DEPUTY CHAIR — You can actually have VCAT making a series of orders. There's prohibition, loss of amenity compensation, and an order for civil penalty; and any applicable order that VCAT may make pursuant to section 165, which is its general capacity to issue orders.

So again looking at the sliding scale, presumably VCAT would take into consideration the circumstances in any given case prior to making a decision about whether a civil penalty order or compensation order, or anything else should apply. And that a prohibition order would in fact be the most severe outcome that could be applied. And therefore relevant factors about the severity of that would be considered by VCAT.

Ms HALL — Yeah.

The DEPUTY CHAIR — I mean that is their job as far as tribunal actions around the available options to it.

Ms HALL — Yeah. I think they are also — in terms of fines, I would be more inclined to have it so that the owners corporation puts a list of what it is cost them to rectify, and they pay whatever the rectification cost is, rather than just a fine.

The DEPUTY CHAIR — Well there is a loss of amenity compensation order as well as a civil penalty. So there are a couple of different elements to this particular Bill, which is where we are talking about — —

Mr DALLA-RIVA — It does not have compensation, I think is what — —

The DEPUTY CHAIR —

The maximum amount of compensation that VCAT may order under this section is \$2000 for each affected occupier for each breach.

So that is pursuant to 169E(3).

Ms HALL — Yeah. So I do not think \$2000 — depending on the type of building — I don't think \$2000 is sufficient.

The DEPUTY CHAIR — For each affected occupier for each breach?

Mr DALLA-RIVA — For 20 occupiers, that adds up.

Ms HALL — Are you saying \$2000 for 500 or for the amount of people on that floor?

Mr DALLA-RIVA — Could be.

The DEPUTY CHAIR — Well again this depends on the circumstances. If you've got an entire — say a floor which has been affected by a house party that spilled out and involved all sorts of activity in the stairwell and the lift well et cetera, it is more likely than not that people on that floor would be directly affected within the meaning of that sub-section, rather than people who are six floors above, arguably.

Ms HALL — Yeah.

The DEPUTY CHAIR — You might have people affect — people being affected on — on the lower floor or on the upper floor, depending on noise. But again it is about each affected occupier for each breach.

Ms HALL — Yep, okay.

The DEPUTY CHAIR — So what do you say to that?

Ms HALL — Yeah, that could work.

The DEPUTY CHAIR — Sorry, I — —

Mr DALLA-RIVA — No, no, that's okay. That is alright because I have not gone further into the Bill. But it is clear that — —

Ms HALL — I still think the rules that you put in must be the rules of the building and not the six rules or seven rules that you put in. So I think the rules that a building puts together. Because there are lots of liabilities associated with short-term letting in terms of pool, gym facilities — you know.

The DEPUTY CHAIR — Why can't you have both? Why can't you have a set of overarching obligations and then — —

Ms HALL — Absolutely. If you can — —

The DEPUTY CHAIR — specific to a site?

Ms HALL — If that is what is being implied there, I am happy with it.

The DEPUTY CHAIR — Let me give you an example. Let's talk about the employment relationship. There are a set of minimum terms and conditions that operate under federal legislation — —

Ms HALL — Yeah.

The DEPUTY CHAIR — To say that employees must have access to these things. They include minimum terms and conditions, they include the right not to be discriminated in the workplace, they include safety at work, et cetera. So if you look at that as being the six principles — underneath that you have site specific or area specific issues that apply say for example in an award, that sets out very industry specific minimum conditions that must apply.

Ms HALL — Yep.

The DEPUTY CHAIR — So that is the sort of system whereby you can have different layers of regulation which do not interfere with each other, but which are specific as far as the owners corporation rules on the one hand, whilst complying with the broader overarching principles on the other. What do you say to that sort of system?

Ms HALL — If that is the system, then that is fine.

The DEPUTY CHAIR — Okay.

Ms HALL — Okay. Because when I read that, I read it to those rules, and that was it. But if they are the overlying rules, yes.

The DEPUTY CHAIR — Not to the exclusion of owners corporation rules.

Ms HALL — Correct.

Mr DALLA-RIVA — Okay.

Ms HARTLAND — So there'd be standard rules and then a building — —

Ms HALL — So you have got your model rules, then you have got your building rules specific to the building.

Ms HARTLAND — Yes.

Ms HALL — Like no glass in the pool area and stuff.

Mr DALLA-RIVA — So Eureka Tower will have different rules to — —

Ms HALL — That is right, we have got about 15 pages here.

Mr DALLA-RIVA — Have you?

Ms HALL — Yeah.

Mr DALLA-RIVA — Can you just outline them, start at p. 1?

The DEPUTY CHAIR — Sounds like you are a very tightly run operation.

Ms HALL — We do — when we do breach though, we breach using the rules. So if there is a breach, we always quote the rule that they have breached.

Mr DALLA-RIVA — And what happens when the breach is made?

Ms HALL — Sorry?

The DEPUTY CHAIR — What is the consequence?

Mr DALLA-RIVA — What are the consequences of a breach?

Ms HALL — Well, in a really short-term stay, probably not a lot. We just let the agent know and the owner know that that's occurred, and we normally put a letter under the door saying, 'You are in breach, you did this, you did that'. Normally the next day the same thing will happen because if they are there for a weekend, they are there to play each day.

But in more of a shorter longer term scenario, there will be up to three breaches. Because we have to breach them three times before anything can happen with VCAT. So I do not know — —

Mr DALLA-RIVA — Well, this is — and that's the same part with the legislation.

The DEPUTY CHAIR — That's right.

Mr DALLA-RIVA — It has to be three — —

Ms HALL — So how can you breach — —

Mr DALLA-RIVA — Under section 169 — —

Ms HALL — You are breaching the owner then three times. So the owner has to be breached three times from their tenant before it can go to VCAT.

The DEPUTY CHAIR — Which is why it specifies that, and that is more at the more severe end of the penalties that are available to VCAT to exercise.

Mr DALLA-RIVA — Yes.

Mr EIDEH — I just have a quick question. How can the Bill be improved to mitigate some of the issues you raised?

Ms HALL — How can the building be improved?

Mr EIDEH — No, the Bill.

Ms HALL — Oh, the Bill?

Mr EIDEH — Yeah.

Ms HALL — Well, I think the fines and the penalties really need to be looked at, because they need to cater for small buildings and really large expensive buildings. And I — with having those rules overriding your owners corporation rules, I think that is good.

The DEPUTY CHAIR — Sorry, what do you mean looked at? When you say the fines and the penalties need to be looked at for small and for large, are you saying there should be a sliding scale of penalties that apply?

Ms HALL — It is not just about penalties, to be honest. It is about maintenance of that building ongoing. With so many people coming in and out, in and out, there's a lot more maintenance on the floors.

Mr DALLA-RIVA — Yeah.

Ms HALL — There is a lot more cleaning, there is a lot more security that you are putting in place for those particular floors. There is a lot more maintenance in terms of keeping your corridors looking nice.

So the maintenance component is a big part of short stay accommodation which is not covered. What we've been talking about is the immediate issue of someone playing up in that capacity. But we are not talking about the amount people that are coming in and out. Their friends are coming in and out, they have got 10 visitors coming in and out, in and out.

So that part has not been addressed, and I think it needs to be. I still think there needs to be a cost imposed on maintenance of the building.

The DEPUTY CHAIR — How do you quantify that though above and beyond say ordinary foot traffic on the one hand, people with visitors and families — and you have said that people might — I mean you want to have a dinner party. If you have got a gorgeous apartment in the Eureka Tower with a spectacular view and you say, 'I'm going to sign in my 10 people and have them all come up and enjoy dinner with me'. Arguably — and putting aside the issues of disgraceful behaviour for which a compensation order might be paid, or compensation order for loss of a night's sleep, for example, isn't that part and parcel of a busy building in the ordinary course of things? Where do you draw the line between what is acceptable use as part of a community. In essence, it is a vertical community on the one hand versus behaviour that goes beyond that, to the point that it causes an extraordinary burden on issues such as maintenance?

Ms HALL — Well, the people that live in the building — you've just mentioned Eureka so I'm going to talk from Eureka's point of view.

The DEPUTY CHAIR — Sure.

Ms HALL — They are not going to be partying all the time. They are going to have a dinner party once every few months. And I mean the apartments aren't huge. We do not have areas at Eureka Tower, for example like they do at Freshwater Place, that you can hire out, and you can have your dinner party there.

So these people are having dinner parties in their apartments, and they are not big apartments, so you might get six to eight people, and you might have them once a year even. I mean one guy rang us to say he was going to have a cocktail party and he was having 30 people, and that was the once. He has been there six years.

So when they are residents more longer term, they seem to be — it is not come up quickly and have a dinner party, it is sort of more spread over a period of time. Whereas when you have got people constantly changing in a short-term accommodation, constantly changing, constantly using the facilities, things break down, things need to be maintained. And that is the area that needs to be looked at.

The DEPUTY CHAIR — And so you are saying ultimately that should the responsibility of the owner?

Ms HALL — Yeah.

The DEPUTY CHAIR — Or the short stay provider as defined in the Bill?

Ms HALL — No, I think it should be the responsibility of the owner, because the owner's making that choice. The owner is the person profiting from — from a business within a residential building.

The DEPUTY CHAIR — What if that person is a lessee or a sub-lessee of the owner?

Ms HALL — It is still the owner's responsibility at the end of the day.

The DEPUTY CHAIR — What if they do not know about it?

Ms HALL — Well, they have got to find out about it, yeah.

The DEPUTY CHAIR — And this is the situation — —

Ms HALL — Yeah.

The DEPUTY CHAIR — Today we have heard in evidence that you might have a situation where there is an owner, there is a tenant, and without the owner's knowledge the tenant actually sub-leases to somebody who has a party house and/or a short stay arrangement that causes the sorts of maintenance challenges that you are talking about. In that situation, who should be responsible?

Ms HALL — Well, the owner's not profiting there, are they? It is really the tenant that is making the profit there.

The DEPUTY CHAIR — So then you are talking about a short stay provider then should be held responsible within the meaning of the Bill. Is that your evidence?

Ms HALL — Yeah, and they should pass that cost on then to the owner if they are doing it all the time and they know about it.

The DEPUTY CHAIR — So that's what the Bill actually defines as short stay provider.

Ms HALL — Yeah.

The DEPUTY CHAIR — Being the owner or a lessee or sublessee or an agent provider.

Ms HALL — Yeah. So if an owner does not know about it, then the person doing it should be charged. But how do you charge them? They are not going to pay for it.

The DEPUTY CHAIR — Well there are three prongs to that definition though around short stay provider.

Ms HALL — Yeah.

The DEPUTY CHAIR — Just to clarify what your evidence is.

Mr EIDEH — So the owner should be alerted for compensation?

Ms HALL — Ultimately if the owner knows that it is happening and they are encouraging it, then yes. Because we are having people now ring us up — and I am sure they are doing it — I do not know if they do it with other buildings, but I have had people ring me going, 'I'm looking at purchasing a property for short stay at Eureka Tower, what are your rules against that?'

The DEPUTY CHAIR — So the owner would be liable then for general compensation?

Ms HALL — Yeah. And I say, 'We don't like it and we frown upon it'. That is my general rule.

Mr EIDEH — Any limit to compensation for them, or just should be unlimited?

Ms HALL — It should be fair. And I think you need to be careful as to how you do it. Because of course a \$4.5 million budget is going to incur a big hefty fee compared to a smaller, six unit budget, but then of course the costs are greater when we go to change carpet, for example. Because you know — —

Mr EIDEH — Like wear and tear?

Ms HALL — Yeah, there is a lot more wear and tear, for sure. You know, it is interesting because you can actually know where the short stayers are because of the amount of traffic on those floors. Because we clean our hallways twice a week. They are all fully vacuumed, and really we do not have a lot of people on the floor. So you can walk up on that floor and you can literally see the vacuum marks on that floor.

But if there has been a lot of traffic, you know it, because it is all changed.

The DEPUTY CHAIR — There's a review underway in relation to the Owners Corporations Act at present.

Ms HALL — Yes.

The DEPUTY CHAIR — Did you provide a submission to that?

Ms HALL — Yes, I did.

The DEPUTY CHAIR — And did that submission talk about wear and tear in the context of the obligations upon owners corporations to manage increased traffic?

Ms HALL — I can't — no, I do not think it did. I can't remember to be honest.

The DEPUTY CHAIR — Okay, all right.

Ms HALL — Sorry.

The DEPUTY CHAIR — That review will in fact be examining those broader issues though of wear and tear which — —

Ms HALL — Yeah, I cannot remember to be honest.

The DEPUTY CHAIR — Because there is a general application of the wear and tear issue, as well as the short stay specific challenges. And one of the things that again as a committee we have to look at, is on the one hand we have got these issues about traffic and the effect upon amenity, which is very clearly spelled out around the terms of reference that we have to confine ourselves to. And the link between that occurring and that occurring because of short stay — —

Ms HALL — Yeah.

The DEPUTY CHAIR — As opposed to other reasons — —

Ms HALL — Yeah, sure.

Ms HALL — I think one of the biggest things that — when you are looking at all the evidence that you have — —

The DEPUTY CHAIR — Yeah.

Ms HALL — Is that these are communities. And people want to feel safe. And I think if we can keep that in the forefront of whatever is introduced, I think that's going to really be positive for the whole — —

The DEPUTY CHAIR — So you think shoring home responsibility to a short stay provider to pay for compensation and to actually be held responsible is a way to increase the safety of a community?

Ms HALL — Responsibility is definitely a factor, yeah. They should be — —

The DEPUTY CHAIR — So a costs-related responsibility as well as legal responsibility?

Ms HALL — Yeah. I mean there are issues with short stays too — go well beyond just that floor. You have got more and more amenities occurring in these high-rise apartment buildings, and people using gym, we make sure that every person who uses the gym is inducted, from an insurance liability point of view.

The DEPUTY CHAIR — Absolutely.

Ms HALL — So what happens when there are people who are there for two days, want to go and use the gym and do their weights, and they have not been inducted on the equipment, they injure themselves. There are a whole range of issues when they are not interested in the rules of the building and how it works, because they are only there for a shorter period of time.

Mr DALLA-RIVA — One question in terms of your role. You have been in the industry for 18 years?

Ms HALL — Yes.

Mr DALLA-RIVA — You have worked across a variety of areas, overseas as well as interstate.

Ms HALL — Yes.

Mr DALLA-RIVA — The growth in the short-term residence has been noticeable, I gather.

Ms HALL — Extremely noticeable, yeah.

Mr DALLA-RIVA — And obviously it is not stopping.

Ms HALL — No. Well, that is what I have written.

Mr DALLA-RIVA — Yes.

Ms HALL — I mean I know that it is going to happen, but — —

The DEPUTY CHAIR — It is here to stay.

Ms HALL — Yeah. And you know, so be it. But it has been a big — —

Mr DALLA-RIVA — In terms of your workload, have you noticed what percentage of workload it is put on now owners corporations compared to when they did not exist?

Ms HALL — Yeah, huge workloads.

Mr DALLA-RIVA — Is it 10 per cent, 20, 30, 50?

Ms HALL — Yeah, I would go about 20 per cent.

Mr DALLA-RIVA — So 20 per cent of your effort?

Ms HALL — Yeah, and it really depends on — because you have got to do breaches, you have got to follow them up. You have got to get quotes for damage. You have got to submit those — get the owner to pay, deal with them to pay, put out invoices for them. There is quite a bit of administrative work.

I do not charge Eureka Tower for any of that. I just do it as part of my role. But I know that if you have a look at the schedules on the back of the strata community contracts, you will see that there are pages and pages of fees that are charged for every single thing that gets done by an owners corporation management company.

So every time a pen is picked up or a letter is done, the owners are being charged for that. So it does start to increase the administrative fee that they are paying as well.

Mr DALLA-RIVA — So there was some evidence in respect of — because there are some apartments that are using short-term accommodation, that they perhaps should have a levy or some additional costs for that additional workload that you are doing. What is your view on that?

Ms HALL — Well maybe the levy — what, in terms of the owners corporation management companies being paid?

Mr DALLA-RIVA — Yes.

Ms HALL — Well they have a schedule of fees at the back of their contract. So if they are charging for that, then that should be their schedule of fees.

Mr DALLA-RIVA — No, no — —

The DEPUTY CHAIR — No, but would the schedule of fees be expanded to include for example a levy on short stay providers who wish to make a short stay residence available as part of the offsetting and mitigating the extra work that owners corporations need to do?

Ms HALL — Paid directly to the OC management company? Is that what you are saying?

Mr DALLA-RIVA — Yes.

The DEPUTY CHAIR — Yes. So I have a short-term accommodation in one of my apartments. For that privilege, for receiving an income, I then get charged extra for that privilege because of the extra workload that owners corporations have to manage?

The DEPUTY CHAIR — Or the profit making that occurs as you have expressed it earlier in your evidence.

Mr DALLA-RIVA — Yeah.

Ms HALL — Well, I think it is part of an owners corporation's manager's job to write breach notices and do that, and then be paid for that. Are you saying that the owner would pay the OC management company directly rather than — —

The DEPUTY CHAIR — No. So just to boil it right down. You have given in your evidence your estimate of about 20 per cent additional work caused by short stay accommodation within the buildings that you manage over the 18 years' experience that you have had.

Ms HALL — Yeah.

The DEPUTY CHAIR — On your evidence, would a levy assist with — as added to the schedule of fees, assist with recognising the additional work that arises as a result of short stay accommodation, if it were to be included in the contract with the owners corporation itself?

Ms HALL — Yes. As long as they are not charging for every single thing that they do as well, cause then that's double dipping.

The DEPUTY CHAIR — No, you have said that on top of what you have as a base workload, you have had 20 per cent more work that's come up as a result of short stay.

Ms HALL — Yeah.

The DEPUTY CHAIR — So to assist with recognising and supporting that 20 per cent workload for the owners corporation, would a levy on short stay providers — —

Mr DALLA-RIVA — Only those.

Ms HALL — Only those apartments.

The DEPUTY CHAIR — Who had those short stay providers, so the 10 within say Eureka that you have referred to earlier. Would that in fact mitigate some of your concerns around the additional work that has been created?

Ms HALL — It would.

The DEPUTY CHAIR — Okay.

Ms HALL — As long as they do not charge it as part of their schedule. Do you understand where I am coming from?

The DEPUTY CHAIR — No.

Mr DALLA-RIVA — Not really.

Ms HALL — Okay. So in a contract for an owners corporation, you have a levy — a schedule of fees.

Mr DALLA-RIVA — Correct.

Ms HALL — That you charge to write a letter, to write this, to write that. So as long as then the owners don't get charged for you doing that work if you are getting another — a different fee coming in from the owner themselves.

The DEPUTY CHAIR — So you are concerned about double dipping?

Ms HALL — Yeah. I am just trying to be fair on all parties.

Mr DALLA-RIVA — Yeah.

Ms HALL — Do not charge the owners for that extra work if you are going to be charging — do not charge the owners corporation for that additional work if you are going to be charging the owner directly for that additional work. That is where I'm coming from.

The DEPUTY CHAIR — Yep, okay, right.

Mr DALLA-RIVA — And the final question — you have obviously been in the industry for 18 years.

Ms HALL — Yeah.

Mr DALLA-RIVA — What are the views across the board with other owners corporations' management services with this rise in the short stay accommodation?

Ms HALL — Look, there's been a lot of — I have dealt with Watergate, and I know Watergate — Barbara, who has been dealing with this for years and years now, on this issue — and I speak to building managers and — —

The DEPUTY CHAIR — We are not about talking the Watergate, are we?

Ms HALL — No, I'm talking about a range of owners corporations that are dealing with this issue.

The DEPUTY CHAIR — Yeah.

Ms HALL — And they say it is a nightmare. Especially because they do not have the ability to monitor the people that are coming in, or to address things quickly when they happen.

Mr DALLA-RIVA — Yes, thank you.

The DEPUTY CHAIR — Now finally, just one quick thing. We have heard evidence from the Holiday Rentals Industry Association before, around its code of conduct that applies. I am just wondering if you can take on notice for us — you have referred to about 10 short stay accommodation in the Eureka Tower.

Ms HALL — Yeah.

The DEPUTY CHAIR — I am just wondering if you are able to advise the committee whether any of those 10, as far as you are aware are party, or have signed up to the code of conduct that has been developed by the Hotel Rental Industry Association?

Ms HALL — I won't know that information, I do not have it.

The DEPUTY CHAIR — Okay.

Ms HALL — I can ask the agents.

The DEPUTY CHAIR — If you could just — —

Ms HALL — Yeah.

The DEPUTY CHAIR — Naturally just see about that. That would be fantastic if you could provide that.

Ms HARTLAND — Even just how easy it is to obtain that information as well.

Ms HALL — That was from Stayz, wasn't it?

The DEPUTY CHAIR — The Hotel Rental Industry Association provides a code of conduct that applies to various participating organisations.

Ms HALL — Yeah, okay.

The DEPUTY CHAIR — And holiday rental owners are then required to comply with certain standards of conduct to effectively minimise the impact on amenity.

Ms HALL — All right.

The DEPUTY CHAIR — Just anything that you can actually provide to the committee would be useful.

Ms HALL — No worries, okay.

Mr DALLA-RIVA — It would be great. Thank you.

Ms HALL — Thank you.

The DEPUTY CHAIR — Thank you very much Ms Hall, you are off the hook. Excellent, it is very useful. And we will in fact be providing you with a transcript of these proceedings once that has been prepared. If there is anything else that you think of or would think would inform the committee that you would like to provide through to the secretariat, that would be great. Otherwise the secretariat will be in touch around that issue that you've just taken on notice about those 10.

Ms HALL — No, worries. Thank you.

Mr DALLA-RIVA — Thank you.

The DEPUTY CHAIR — Thank you very much. On that basis we can turn the recording off and adjourn for lunch, thank you very much.

Mr DALLA-RIVA — Okay. What time are we back?

The DEPUTY CHAIR — We are back at — —

Mr DALLA-RIVA — 1.30?

The DEPUTY CHAIR — At 1.30 yes, thank you.

Witness withdrew.