

# TRANSCRIPT

## STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

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

Melbourne — 24 March 2017

#### Members

Mr David Davis — Chair	Ms Samantha Dunn
Ms Harriet Shing — Deputy Chair	Mr Khalil Eideh
Ms Melina Bath	Mr Cesar Melhem
Mr Richard Dalla-Riva	Mr Daniel Young

#### Participating Members

Mr Greg Barber	Mr James Purcell
Mr Jeff Bourman	Mr Simon Ramsay
Ms Colleen Hartland	

#### Staff

Inquiry Officer: Mr Matt Newington

#### Witness

Mr Paul Salter (sworn), spokesperson (past president), Victorian Accommodation Industry Association.

**The CHAIR** — Thanks, Mr Salter. Paul, if you can make a brief initial statement, we'll follow with some questions. That would be appreciated.

**Mr SALTER** — Thank you Honourable Members and Chair.

**Ms SHING** — To exclude the Chair from that definition, that is fantastic.

**Mr SALTER** — I appear today representing the Victorian Accommodation Industry Association as their spokesperson and the immediate past president. We are a young association but we do represent over a thousand properties throughout Victoria where the owners have made those properties — investment properties available for short-term accommodation. In addition to that there's about quite a number of other operators. I can't quantify the number but we know that it's in the vicinity of an additional two and a half thousand — two and a half thousand properties.

I'm a licensed real estate agent. I have been operating short-term accommodation in Docklands for over 10 years. I was on the panel that was involved in the final report to the Government in relation to the issues with regard to short-term accommodation in CBD buildings and I have quite a unique perspective on the legal clarification that's occurred over the last five years. But VicAIA as an association, what we — I suppose our primary focus is to educate our members to understand best practice.

Now, I know the code we discussed from a lot of different perspectives but it is a starting point for us to educate members, that if they are going to operate in this space these are the standards that we would expect you to comply with. In addition to that we try and help them understand what compliance issues mean and I think — I will just give one specific example. A normal professional business operator with an OC delivered evidence that particular damage was done to common property, that person would not go through any processes. He said give me the bill, it will be paid. That is what a professional would normally do because they are not going to go through this whole process of trying to determine who's responsible. It's part of the ongoing costs. If the evidence is provided, the debt has been incurred, the bill is paid. And I can give numerous examples where I do not — that is not the purpose of this hearing.

Now, this also includes the suppliers and associated services related to this industry, that we are helping them understand what we are trying to achieve with the code. Now, the code is used to draw from to create the house rules and a good example of the advantage of having house rules is that because there's lease in place, if particular guests breach those house rules they are in effect not complying with the agreement and they can be evicted for trespass. So most of the professional operators I am aware of have mechanisms in place to remove unruly guests before they depart. They go through the process of taking ID. They go through the process of taking some form of security deposit and if they are concerned the higher the deposit, and there have been instances where it could be as high as 2000.

Look, as far as the Association is concerned we promote our members to comply with the code, as I have already indicated but we also educate owners corporations about what we are trying to achieve. But the second thing we do is we are a substantial contributor to the Victorian economy, and if we look at the revenue of short stay, that is \$792 million, wages paid in excess of \$160 million, and we are talking to supplying direct jobs of about 64 000. Now, that also supports multiple micro and other businesses, restaurants, cafes and so on who obtain the benefit of those short-term guests while they are there. A long term owner may not go down to the restaurant every day but I can assure you short-term guests will.

The third thing is that we provide an accommodative — an accommodation choice that really is in high demand by the consumer. It is the consumer driving this style of accommodation choice and with all due respect to the legislation which I will touch on in a minute, it is a perfectly regulated industry.

**Ms SHING** — Already?

**Mr SALTER** — Already. Because the consumer is perfectly regulating whether you stay in business or not.

**Ms SHING** — And there are no problems?

**Mr SALTER** — I'm not saying there are not problems.

**Ms HARTLAND** — What do you mean by perfectly regulated?

**Mr SALTER** — But what I am saying is that the consumer will dictate whether you survive or not survive, by the reviews they write, by the way they respond after they have been to your particular property — do I mind if I ask you a question?

**Ms SHING** — At what cost to the amenity of the people who want quiet enjoyment in the meantime?

**Mr SALTER** — Very good question. Where is the data that shows there is an impact on amenity and where is the definition — —

**The CHAIR** — Well, that is what we are seeking. That is the purpose of this inquiry, to actually seek that data.

**Mr SALTER** — Yes I understand.

**The CHAIR** — We have asked that question, a number of us.

**Mr SALTER** — If I come to the legislation, where in the legislation is there provision for the quiet enjoyment of a short-term guest where the owner next door is having a party?

**Ms SHING** — Under short stay accommodation?

**Ms HARTLAND** — They are not tenants, they are short stay accommodation. So you are saying no short stay tenant has ever caused a problem in your building?

**Mr SALTER** — No. What I am saying is that from what I have been listening to today, the only people that cause problems and have parties and defecate in the hallways and bring in prostitutes and destroy the building are short-term guests.

**Ms SHING** — That is precisely not — —

**Mr SALTER** — Obviously no — —

**Ms SHING** — No, Mr Salter, that is precisely not what the evidence today was showing. Just to be very, very clear. The evidence has very clearly delineated between the ordinary wear and tear that occurs to the infrastructure of building, to its lifts, to its entry and exit points on the one hand to the way in which foot marks show up when carpet has been vacuumed to a small number of people who cause damage which is vastly disproportionate to the amount of time that they spend in a particular building because there is a lack of accountability and people have a limited opportunity to seek redress which is again why this is an issue which requires our consideration around how to strike that balance. So just to be clear we have heard very clear evidence today about the fact that buildings are as if you are talking about a big apartment tower, the vertical community there is a lot going on. There is a lot of traffic. There is a lot of noise. There is a lot of incidental toing and froing as people live their lives. The thing that we are trying to address here is not that people living their lives and doing so in quiet enjoyment which arises, as you would be aware as a real estate agent, on a very different legal head of power.

**Mr SALTER** — Yes.

**Ms SHING** — But the way in which people's quiet enjoyment is interfered with because people come in without any accountability through an owner or an occupier under the definition of short stay provider, access a property and then treat it and the environment in a cavalier fashion which affects people's quiet enjoyment.

**Mr SALTER** — Have you ever stayed in a short-term property?

**Ms HARTLAND** — Yes, but I do not do weekend parties.

**Mr SALTER** — And the question I want to put forward is did you change your behaviour when you went away?

**Ms SHING** — What is your point?

**Mr SALTER** — Well, my point is that you are making the comment that there is a problem and there is a lot of information. The real problem is this vast problem, and yet it has not been quantified.

**Ms SHING** — No.

**Mr SALTER** — And what I am suggesting is that as far as the data — I do not know where this data is, but my point I am trying to make is that people do not change their behaviour simply because they go away for a weekend.

**Ms SHING** — I beg to differ with you on that, Mr Salter.

**Mr SALTER** — Many people do not — —

**Ms SHING** — Sorry, Mr Salter, but the things that we are looking at here — —

**Mr SALTER** — But however some people — most people will not change their behaviour.

**Ms SHING** — One of the things that we are looking at here is the party house situation whereby because it is not your residence you don't actually have to take any responsibility for what happens, a schoolies environment, where because it is time away from home there is no supervision, you can run rampant and you do not have to worry about who is going to clean up the vomit the next day. The key thing that we are trying to understand, and just to take you back to the terms of reference for this particular inquiry is the impact amongst other things, and there are a number of components here, on individuals, families, apartment owners and owners corporations of short stay letting in apartment buildings, the adequacy of owners corporation rules in managing those impacts on amenity and the proper consultation with peer sector, economy providers, individuals and owners corporations, short stay, letting providers, including you.

**Mr SALTER** — We believe that there is already very effective and well tested dispute resolution processes in place to deal with noise and nuisance.

**Ms HARTLAND** — Can you explain those?

**Mr SALTER** — Well, firstly I think members who are running an operation — operating short-term accommodation — would do is if they are concerned that there is a party going on they will contact the police.

**Ms SHING** — The operators will?

**Mr SALTER** — Yes.

**Ms HARTLAND** — How do they know?

**Ms SHING** — When they are not there.

**Mr SALTER** — Well, you see, it depends on the operator. If the operator is not there I agree there would be a problem.

**Ms SHING** — So not all operators, but if an operator is present then they may — —

**Mr SALTER** — But if an operator is informed that would be the first action they would take, and after investigating the property themselves.

**The CHAIR** — Except we heard evidence today from owners corporations where people who are residents of those apartments are they themselves too scared to make complaints, too scared to leave their building or their room to go out and actually make a complaint against the short-term occupiers.

**Mr SALTER** — I understand that comment was made — —

**The CHAIR** — That is the evidence.

**Mr SALTER** — I am just wondering where is the data to show how many people were in fact in that position and — —

**Ms SHING** — But the absence of data does not indicate that therefore system is perfectly adequate to — —

**Mr SALTER** — No, hold on, I would say we agree with that.

**The CHAIR** — Okay.

**Ms SHING** — No, and I understand you are saying, and we have sought data from various witnesses. With stays, I have asked them to give me factual data rather than statements, more about the apartments as opposed to their country and beach residence. The Holiday Rental Industry Association as well in relation to the code of conduct and the trial that they did at Flinders Wharf and other data that they have gathered on the efficacy of their conduct of conduct.

**Mr SALTER** — Yes.

**Ms SHING** — I mean, these are the things that we are trying to fill in the gaps on, so — —

**Mr SALTER** — Well, I believe the process if there is a complaint you would either go to the HRIA website, lodge a complaint. You would use their hotline or you would use the app.

**Ms SHING** — With a voluntary code of conduct?

**Mr SALTER** — Yes.

**Ms HARTLAND** — If you are a resident, you are the next door neighbour, how do you know to do that?

**Mr SALTER** — Well, the first point is if you're informed you would know who to contact.

**Ms HARTLAND** — But how do you know who has let that property next door to you and how do you know to go to that website?

**Mr SALTER** — I would assure you that most owners know who the short-term operators are in the building in a lot of instances.

**Ms HARTLAND** — Right.

**Mr SALTER** — The ones that are operating professional operations. If you have got somebody that started that is new I am sure they probably will not go round knocking on doors saying 'Look, I'm running short-term next to you'. But once an organisation is established in the building most of the owners know that particular property is short-term.

**Ms HARTLAND** — How do you know that?

**Ms SHING** — How do you know that?

**Mr SALTER** — The operators that I speak to make it their business to ensure that residents know, they want people letting them know if their asset is going to be damaged. Assuming it is not our desire to spend thousands of dollars furnishing an apartment for somebody to come in and trash it the next day.

**Ms SHING** — But you accept that is not always the view held by owners, that they — —

**Mr SALTER** — I totally agree with that.

**Ms HARTLAND** — And you were talking to us about not taking it just on anecdotal evidence. So what data do you have? Have you gone through a high-rise that has a large number of short-term rentals and actually doorknocked the owners — owner-occupiers to find out from them who owns the property next door?

**Mr SALTER** — No, but if you would like that data collected I could collect it.

**Ms HARTLAND** — Well — all right, that would be really good to do that.

**Mr SALTER** — Okay. I think there is an opportunity where if there was a working relationship between the operators and the owners corporations, which is what we as an association have started that communication —

**The CHAIR** — That is one variable in truth, isn't it?

**Mr SALTER** — It is because — —

**The CHAIR** — Yes. There are many places where that is not the case.

**Mr SALTER** — The other way would be to say that if you want to go into this space, there was a suggestion that somehow they would be registered. Well, who do you give that responsibility to? Who funds that? Who monitors that?

**Ms SHING** — So just on that point, who do you think should be responsible in the event of either physical damage or damage to the loss of quiet enjoyment on a one off or on a regular basis for — and this is the sort of example that Mr Dalla-Riva gave earlier, potentially people who move into an apartment complex, they have retired, they want to be able to have a really quiet enjoyment of their surrounds. They have moved in on the basis that they will be able to get to know the people on their floor, that people will be able to leave their doors open. All of a sudden that changes. All of a sudden every weekend it is impossible to sleep or there is mess or people affected by alcohol or other substances throughout the night, who should be held responsible for that?

**Mr SALTER** — Where is the data to suggest that happens?

**Ms SHING** — No, that is not the question. Who should be held responsible in a scenario like that?

**The CHAIR** — It certainly happened anecdotally. I do not think anyone denies that.

**Mr SALTER** — I agree.

**Ms SHING** — So anecdotally?

**Mr SALTER** — Who is responsible? Personally I believe it is the operator's responsibility.

**Ms SHING** — What do you mean by operator?

**Mr SALTER** — The person that put that guest in the apartment. They should have taken steps to gain ID, they should have taken steps to get a security deposit, they should have taken responsibility that if damage caused to the common property that they pay for it.

**Ms SHING** — So on that basis do you agree then that the definition of short-stay provider in the Bill itself, meaning 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 a lessee or sub-lessee 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 an agent provider should be held responsible?

**Mr SALTER** — Could I ask you a simple question? I understand that. Could I just put it this way. Imagine if you receive a speeding fine from your son who is using your car and you are held responsible for him driving that car above the recognised speed limit. And if he continues to go through three red lights and is caught and fined on those three red lights, should you lose your licence because you lent him the car?

**Ms SHING** — So rather than answering the question with a question — —

**Ms HARTLAND** — That is not the question that was asked.

**Mr SALTER** — My answer — my answer is the person who is causing the problem should pay the fine.

**Ms SHING** — So in essence the answer is yes?

**Mr DALLA-RIVA** — As an ex copper, if my son was speeding in my car and he exceeded the speed limit over a certain level I would lose my car. And depending on the circumstances, if he decided he wanted to do burnouts, it would potentially be crushed. So it happens.

**Mr SALTER** — Okay.

**Mr DALLA-RIVA** — It happens in real world.

**Ms SHING** — You have said that the owner should be responsible.

**Mr SALTER** — No, I don't — —

**Ms SHING** — Sorry, no, I beg your pardon, I do not want to verbal you. You have said that the person who has handed over control for the lot or part of that lot whereby the person comes in without ID and does whatever and causes damage should be responsible?

**Mr SALTER** — I do not believe a third party should be responsible for the actions of another.

**Ms SHING** — Well, that is at odds with the evidence that you have just given.

**Mr SALTER** — No, what I'm saying is the person driving the car should be responsible.

**The CHAIR** — Whereas you are saying the operator as opposed to the owner. This is really about a strict liability focus. Let's be quite clear about what we are talking about here. If there is no clear or strict liability you actually have a number of parties and the difficulty of holding anyone responsible. That is actually the truth in the matter, isn't it?

**Mr SALTER** — Yeah.

**The CHAIR** — So at the moment the situation is unclear. There is an owner, there is a person who might be managing a let and then there is the occupant, the temporary occupant. So three people there who are responsible and it is unclear.

**Ms SHING** — Your view on that appears to have changed with the evidence that you've given today.

**Mr SALTER** — I believe the person responsible for causing the problem is the one that is liable. That is the first step that you would take in that process. Now, in most cases a professional operator will have taken a bond, they will have lost that bond. They won't wait until they have left before they determine whether or not they are going to refund that bond.

**Ms SHING** — In short stay situation where there is no bond applicable.

**Mr SALTER** — Well, that is a very poorly managed business.

**The CHAIR** — But we have heard evidence that they do not do it.

**Ms SHING** — That it is not done.

**Mr SALTER** — Well, it is done from my understanding, most of the people who I talk to take security deposits. If you are giving keys to somebody and they are going into a million-dollar property or a half-million — —

**Ms SHING** — That is not what the evidence that has been —

**The CHAIR** — It might happen but the evidence earlier but it is not — —

**Ms SHING** — before this inquiry, in relation to the — —

**Mr SALTER** — And if I were to get you the data from our members I would find very few members who would not take a security deposit or some form of security or bond over the fact that these people — if they damage the property.

**The CHAIR** — We would appreciate that evidence.

**Mr SALTER** — Yeah, sure.

**Ms SHING** — In the event that somebody causes damage and the only reason that that damage was caused occurred because an owner or a lessee or a sub-lessee or an agent acting on their behalf let them in, should the owner or the lessee or the sub-lessee or the agent who let them in be held responsible?

**Mr SALTER** — I would go in degrees. The answer to the question is the person who caused the problem would be the first person that would pay. If that person cannot pay you would come back to the person that let them in.

**Ms SHING** — So if they have gone back to the United States — —

**Mr SALTER** — If that person cannot be found, it's the person that let them in, you could go to the owner.

**Ms SHING** — So if they have gone back to the United States?

**Mr SALTER** — Well then you are left with the person who let them in.

**Ms SHING** — So you are left with the lessee or the sub-lessee or not?

**The CHAIR** — So you are opening a cascade of strict liability, are you?

**Mr SALTER** — Yeah, exactly.

**The CHAIR** — Is that what you are saying?

**Mr SALTER** — It would be fair and responsible then because then it puts the professional operator in a position where if he has taken the bond he has covered his risk. It just comes back to — —

**The CHAIR** — Can I just ask you about another matter which is data. Your members must have insurance at some time.

**Mr SALTER** — Absolutely. That is part of the professional process that you go through. If you are going to operate this business — —

**The CHAIR** — Right. So there is a layer of insurance?

**Mr SALTER** — Yes.

**The CHAIR** — There is a unit or an apartment, the owner would generally have insurance on that. The owners corp would have some general public liability and related insurances and then your people who have let the arrangement have got a layer of insurance on that. What would be the sort of quantum on a two-bedroom apartment that has been let regularly?

**Mr SALTER** — Well, you will find that depending on the size of the operator they will self-insure. In other words they are not going to spend money on insurance for damaged property inside the apartment because they are constantly updating, replacing and — —

**The CHAIR** — Do they have a public liability insurance?

**Mr SALTER** — They definitely have public liability, that is one for the requirements — —

**The CHAIR** — But they have some public liability so they would not be left with a \$2 million claim or — —

**Mr SALTER** — You are talking about business people who would, like any other business, go through that normal process.

**The CHAIR** — See, this is my point. I am trying to get to some data here to understand what the costs of this are and what insurances are generally in place. There would be a public liability component.

**Mr SALTER** — There is definitely a public liability component.

**The CHAIR** — And there would be a component that some might have and some might not have in terms of more minor damages, is that — —

**Mr SALTER** — Correct.

**The CHAIR** — Do we have some quantification of that? That would be helpful for us to understand.

**Mr SALTER** — Okay. All right.

**Ms HARTLAND** — In your submission under recommendations — so for the media and others have perpetrated unfounded assertions, allegations and misconceptions.

**Mr SALTER** — Yes.

**Ms HARTLAND** — And these are fully detailed in reference in HRIA submissions. Can you talk to what are these unfounded assertions and can you point to where this is referenced, and I presume the refuting of that claim in the submission?

**Mr SALTER** — Well, what I would like to go through is there is no evidence in terms of we cannot look at this building and say okay, in this particular building the OC can clearly document that there were 47 cases of parties over the last 12 months. Nobody is recording that data. What we hear is that there are parties every weekend. We are not finding in which particular buildings and where they are in fact occurring. And I believe that — I am not trying to escape the question. What I am saying is that if the associations and the owners corporations work together, that data can be collected and we can determine if there is in fact a real issue here.

**Ms HARTLAND** — But you are making an assertion that it is unfounded, so — —

**Mr SALTER** — The one point is we have not seen any data suggesting — —

**Ms HARTLAND** — Well, then you need to also prove that it is not happening. So you are not giving us any data to say that this has never happened.

**Mr SALTER** — Well, I know of two operators, one in operation in the Docklands for 10 years, he has had two parties during that 10 year period and the last one was in 2012.

**Ms HARTLAND** — And in that, you have clearly then gone and spoken to every resident, owner/occupier in those buildings to make sure that there's no problem?

**Mr SALTER** — No, when you say — —

**Ms HARTLAND** — So you have no evidence that it is not happening?

**Mr SALTER** — Oh no, you would know. The operators would know — —

**Ms HARTLAND** — All right. I'm asking you have you gone to any of these buildings, doorknocked and spoken to the owner occupiers to survey them as to whether there is any problem?

**Mr SALTER** — I see you — in one particular case I see a lot of operators who will have particular programs in place.

**Ms HARTLAND** — Have you or your organisation gone and doorknocked — —

**Mr SALTER** — Certain members have, yes.

**Ms HARTLAND** — So you will have that information?

**Mr SALTER** — Yes.

**Ms HARTLAND** — All right. Can you provide that information?

**Mr SALTER** — I will. All right.

**Ms HARTLAND** — Also, on part A, the continued rhetoric that safety, security and disability access is a problem. Can you explain that and can you also direct us towards the court cases where you say even though judges in the Victorian Court of Appeal and the Supreme Courts have established the law there is no problem, could you give us the case numbers to that.?

**Mr SALTER** — I would be quite happy to — I will give you the case numbers I will send that that as an additional — —

**Ms HARTLAND** — Yes. And could you particularly talk to us about disability access, what are you referring to there?

**Mr SALTER** — Disability access — if we are talking about somebody coming into the building in a wheelchair there are provisions put aside for in a hotel environment of how the particular apartment or a certain percentage of the apartment must be constructed. Now, the people who come into this — in the majority of buildings disabled access is there from the perspective that people can wheel into a lift, go up to a floor and go into an apartment, and there have been instances where the feedback from some members is: why are you having people staying with you in an apartment that are disabled? And the feedback from the actual guest is when we go to a hotel we can go for a tour in the bathroom but as soon as we get into the bedroom we cannot move. So the reason we chose your apartment is we have got the ability to manoeuvre not only in the bathroom, even though it is smaller, but we can manoeuvre right through the apartment. Now, that is just one example of what —

**Ms HARTLAND** — I am not sure what that — —

**Mr SALTER** — a disabled person stated. So what I am saying is the ability for people who have got disabilities to use this type of accommodation, it is a choice they make and the access is available because of — —

**The CHAIR** — I would have thought the access is quite variable.

**Ms HARTLAND** — Yes. Depending on a building — —

**The CHAIR** — I mean, I am aware of one apartment which is a three-storey walk up.

**Mr SALTER** — Look, my comment relates to the fact that most people who are disabled will do their homework before they rent a place, they'll start asking heaps of questions, size of bathrooms, et cetera, before they make a choice.

**Ms HARTLAND** — And I have seen listings for buildings that say that it is disability accessible except that you have got to get up the six stairs in the front of the building to get into the disabled lift, et cetera, or the lift is not working or the ramp is blocked and so I would like you to provide the cases in regard to that, instead of just making those generalised assertions without any data, so if you could supply that to the committee that would be extremely helpful.

**Mr SALTER** — All right.

**Ms SHING** — Can I just add another thing in light of the line of questioning that Ms Hartland has pursued with you. I note that at the final paragraph of your submission you say:

If legislation is required, it should be based on actual data and not isolated newspaper stories. The data can determine if the industry has failed to resolve the issue with unruly parties. Give the industry time to find and clean up these unruly operators, while the Government collect the real data from independent sources.

I would just ask you in relation to your appearance at this particular inquiry in your submission. Why haven't you provided the data to the inquiry today then if this is in fact a way to refute the concerns about what you say are unfounded issues that have been established at law as not being a problem?

**Mr SALTER** — Well, that process is already in place where we are collecting that data. We are not going to be able to collect that from all of the buildings that we are dealing with. The process is going to take time to communicate with every OC to have a working relationship to enable us to collect that data in the first place.

**Ms SHING** — Why hasn't it been begun before now if you are — —

**Mr SALTER** — It already has begun. HRIA — —

**Ms SHING** — When did it begin?

**Mr SALTER** — I think I could tell you when that began. If that question was asked of the HRIA people this morning —

**The CHAIR** — Take it on notice.

**Mr SALTER** — they would have been able to answer that question. That process has already started.

**Ms SHING** — It is unfortunate though that just as an observation that you say that the Bill offends interference with property rights, it creates a negative impact on the Victorian Tourism Industry investment in Victoria and the Victorian economy generally and divisiveness within owners corporations without providing any data that would otherwise have linked credibility to your claims, because at this stage based on the information that I have got in front of me about your submissions, you are saying that things are unfounded without being able to actually prop that up with any data yourself.

**Mr SALTER** — I totally agree. So I think would it not be fair to say that before legislation is enacted that we should in fact have hard data to substantiate that it's worth it?

**Ms HARTLAND** — Can I add to that? The first time I was made aware of this was during the 2012 Melbourne bi-election when I attended a community meeting in Docklands with residents and they were raising these issues with us then, so that is just on five years ago. When did you start collecting data?

**Mr SALTER** — I think at the end of all the legal cases the data was started.

**Ms HARTLAND** — So when was that?

**Mr SALTER** — Probably about 12 months ago.

**Ms SHING** — Can I just indicate that the panel report though that you have actually referred to in the course of your evidence, as has the Holiday Rental Industry Association, in fact established that there was a problem.

**Mr SALTER** — We have never ever said there was no problem.

**Ms SHING** — Well, you just did.

**Mr SALTER** — We are talking in fact the size of it.

**Ms SHING** — No, no, you said before that — —

**Mr SALTER** — The implication was that parties are happening every weekend. That is not what we are finding.

**Ms HARTLAND** — 'The media and others have perpetrated unfounded assertions, allegations and misconceptions.' You have got that in your submission.

**Ms SHING** — You said at the outset, Mr Salter, in your evidence today that in fact that the system was in fact perfectly capable of regulating itself in the context of not wanting to lose business.

**Mr SALTER** — Well, if we looked at all of the people that have come and gone in Melbourne, with all the events that have occurred in Melbourne, and we try and quantify how many problems that occur, they would be insignificant.

**Ms SHING** — Were you a panel member?

**Mr SALTER** — Yes.

**Ms SHING** — Okay. So you were a panel member of a panel that established that there was a problem.

**Mr SALTER** — Well, when we looked at the data the collection of that data for the brief period we were on the panel showed that it was an insignificant problem.

**Ms SHING** — No, it showed that there was a problem.

**Mr SALTER** — It showed there was a problem.

**Ms SHING** — You are indicating that the panel actually looked at data and now you are saying ‘We do not have the data and by the way there is no problem and these are unfounded allegations’. I am getting confused on what you are saying.

**Mr SALTER** — I understand what you are saying but what we are seeing is legislation put in place, and yet we as an industry have not collected that data or anybody has collected that data and we are trying to find a problem which we don’t know whether is really there.

**The CHAIR** — I would actually contend that your industry is actually in a position where you do have data. I mean, I would be staggered if the more professional end of that industry does not have significant insurance data, and the insurers. It would be quite clear. They are hard-headed if nothing else and they will have information that shows there is a risk here, there is a risk there, and certain types of operators have greater risk and some have lesser risks and that is data that is not in the public domain and anything that you could shed in that light would be very helpful for us I would contend. We would welcome access to that data, and maybe your insurers may wish to give us some direct evidence, I would certainly appreciate that too.

There is one other point that I thought was worth noting from your industry level. There must be some — how can I say — recidivists or frequent flyers who cause difficulty. I do not know whether your industry tabulates any of those sorts of lessees or — —

**Ms SHING** — Repeat offenders, that sort of thing.

**The CHAIR** — Yes, recidivists or those who wish to rent things on a repeated occasion but have got a poor record.

**Mr SALTER** — The association has a very loose blacklist of people that are repeat offenders and members of the association are aware of who those particular people are and there are various systems in place that if that person tries to book, depending on the operator, that particular person will be highlighted and they will not be accepted. But there is no — —

**The CHAIR** — All right. Is that shared with owners corps as well, do they have a similar list, any of them, do you know?

**Mr SALTER** — Well, no. I think the discussion with the owners corporations is really just in its infancy. But I believe that is part of a long term solution is the working relationship between those organisations.

**The CHAIR** — Because whilst I do not think this will be a complete solution in any sense, I think there is an aspect here where there may be a number of recidivists I am calling them, who could be weeded out of leases and lets of all types, hopefully.

**Mr SALTER** — Yes. Look, would it be fair for this particular legislation to look at anybody who is causing problems inside the building, not just short-term?

**Ms SHING** — Well, no, it is referred to as the short stay accommodation Bill.

**Ms HARTLAND** — Rather than long-term tenants.

**Ms SHING** — That is where the residential tenancies — —

**The CHAIR** — I do not think anyone would argue that every tenant is a perfect tenant or every owner is a perfect owner. I do not think that is true anywhere but the time cycles and the issues that apply with short stay are quite distinct I think from what applies for a difficult long-term owner, for example in an owners corp. And in a sense we are trying to get to the conundrum of how you deal with some of these short-term issues.

**Ms SHING** — So that data though, any and all data that you can actually provide that has been gathered for any period of time along with the questions that Ms Hartland has raised around the legal authority that you say states that there is not a problem would be useful for us.

**The CHAIR** — And the cases. Are there any other matters that you want to add?

**Ms SHING** — And you've referred back to the Hotel Rental Industry Association's submission as well. So did you have a view in relation to what they've put in their submission apart from the reliance that you put on to it?

**Mr SALTER** — Look, I think the — I think the removal of the person's right in relation to making somebody else responsible for the actions of another, that is untested. The current legislation would appear to be something that there's no definition of what is loss of amenity, that is not described, what that means, so therefore that will need to be tested in the courts. So what I see is we'll have a series of litigation trying to determine what all of this legislation really means and in a few years when all of that is litigated we will know exactly what those points are. So from our perspective it would be preferable if some of those areas could be documented. What does it mean by loss of amenity? What does it mean by taking all the necessary steps? There are 15 steps and do I go to court if I have done 14 and missed out on the 15? What are those steps? So they are the sort of issues from a legal perspective that we are saying if you — and I think probably one point I have not made is that I don't know of any other industry, not the banks, not the insurance industry, motor dealers, sex workers, lawyers, where their — —

**The CHAIR** — I do not think you can put all of them in the same category.

**Mr SALTER** — No, there is no particular order there. Where — —

**Ms SHING** — Solicitor and solicitor, I do not know.

**Mr SALTER** — Where the administration of their behaviour is given to a non-governmental body, and yet in this instance you're giving that whole governance to an owners corporation.

**Ms SHING** — Well, financial services are and financial advisers — I'll give you exactly the example whereby that occurred.

**The CHAIR** — Even lawyers.

**Ms SHING** — And there were self-regulation and again that self-regulation at an institutional level which included banks in fact exposed very, very significant levels of problems that had arisen over many, many years in the course of many careers that had been founded on faulty premises around the provision of accurate information. So right there is an example for you.

**The CHAIR** — All right. Can I just quickly test one other idea with you?

**Mr SALTER** — Sure.

**The CHAIR** — If one of the ways forward might be a fast track resolution mechanism, if we were to have some fast track resolution where maybe an industry and joint committee that had some owners corp representation was able to look at a situation quickly in a day or two or three and resolve quite quickly some of these matters. Would that be something that could work?

**Mr SALTER** — We have had discussions with SCA, very preliminary discussions that we would like to see that issue resolved using that process. So I think it is definitely something that if all the parties involved work on that basis, and if you take most of the professional — —

**Ms SHING** — Other witnesses have said that today too, yeah.

**Mr SALTER** — Yeah. And if you take most of the professional operators, they are not the issue. The issue are the people who come in and effectively destroy the livelihoods of many others because of their behaviour. Now, whether they are a member of the association or not, whether they comply with the rules or not, whether they adhere, I do not believe that would stop us as an industry impacting that particular individual if we know who they are, by visiting them, letting them know what their options are and what we will do — and you have heard all the options of what we can do to somebody who is not operating correctly. And when you say where do we draw the line, well, that is a very easy to make if your industry is being threatened by a repeat operator who is doing the wrong thing.

**Ms SHING** — The industry or the quiet enjoyment by people of their own residences, because that is again in the terms of reference, that is what we are concerned with.

**Mr SALTER** — Okay. The resident — if you have got a good working relationship between those parties we can effectively deal with a rogue operator very quickly, because all those parties will be taking steps to make sure that they are removed.

**The CHAIR** — Paul, thank you. The secretariat will be in contact to follow up on a number of those points. We appreciate your evidence today.

**Ms SHING** — Thanks, Mr Salter.

**Mr SALTER** — Thank you.

**The CHAIR** — And if I can thank all of the witnesses today and the secretariat and ultimately the transcription service, that would be very much appreciated, and the witness — the audience as well. The hearing is closed.

**Committee adjourned.**