

# TRANSCRIPT

## STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

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

Melbourne — 13 April 2017

#### Members

Mr David Davis — Chair

Ms Harriet Shing — Deputy Chair

Ms Melina Bath

Mr Richard Dalla-Riva

Ms Samantha Dunn

Mr Khalil Eideh

Mr Cesar Melhem

Mr Daniel Young

#### Participating Members

Mr Greg Barber

Mr Jeff Bourman

Ms Colleen Hartland

Mr James Purcell

Mr Simon Ramsay

Ms Jaclyn Symes

#### Witness

Mr Rob Mair (sworn), Team Leader, Place Brokerage and Facilitation, City of Melbourne.

**The CHAIR** — If I can ask you, noting that you are not the original witness, to make a very brief statement, we will follow with some questions.

**Mr MAIR** — Fantastic, happy to. I will just start by saying that the City of Melbourne welcomes the opportunity to provide a submission to this inquiry, the review of the Owners Corporations Amendment (Short-stay Accommodation) Bill 2016. The City of Melbourne is unique in the Victorian context in that 80 per cent of the municipality's residents reside in strata title properties, and that figure is only increasing. The City of Melbourne's role within the apartment sector covers health, safety and wellbeing, emergency management, administration of planning and building statutory controls, community development and sustainability.

In a submission in 2016 to the review of the Owners Corporation Act 2006 as part of the government's review on consumer property legislation, the City of Melbourne concluded that the current owners corporation model is poorly suited to the management of large apartment buildings as there are a number of existing pieces of legislation, such as the Building Act 1993 and the Public Health and Wellbeing Act 2008. This proposed reform is welcomed as a first step in improving the management and governance of emerging challenges faced by the owners and occupiers of modern residential developments whilst balancing the legitimate rights of property owners within these developments.

In 2012 the council started to receive an increased number of complaints from apartment owners about the way their buildings were being used and the adverse impacts that they were experiencing, and this was particularly prevalent in the Docklands area. The problem being faced by City of Melbourne residents principally related to a loss of amenity. Complaints received related to poor behaviour of short-stay residents — those who stayed for a weekend or a couple of days. Reports were made advising of abusive behaviour, loud music, fighting and a host of other offensive behaviours.

In the first instance most complaints were made to the City of Melbourne's call centres with the expectation that council would be able to immediately assist with the problem. The City of Melbourne does not have the power to address these problems due to the short-term nature of occupants, and residents must in those instances turn to Victoria Police to address the problems. The second matter of complaint relates to the damage being made to common property or common facilities, such as swimming pools or gymnasiums. The experience of the City of Melbourne is that existing owners corporation rules fail to manage the negative impact on amenity.

The use of apartment buildings for short-stay accommodation is not specifically addressed in either the Building Code of Australia or the Victorian planning schemes. As a result, many apartment buildings that are being used in part as serviced apartments or short-term stay accommodation are being built as traditional owner-occupier accommodation and are then later being used as pseudo-hotels, if you like, wholly or in part. The issue here is that matters of fire safety are not adequately addressed. Unlike a hotel or boarding room or guesthouse, apartments being used in this way do not have the requirements in relation to things like improved smoke detection and early warning systems or fire orders showing residents location of exits and fire safety equipment, and nor are they inspected as part of the City of Melbourne's proactive inspection regime to ensure the safety of these places. Other forms of accommodation of a temporary nature are subject to these regular safety compliance inspections.

An increased number of occupants are also often found to be in apartments than what they were designed for. Emergency evacuation arrangements are designed based on the anticipated number of residents per apartment, and inspections by officers of the City of Melbourne have regularly found that there are a high number of residents than originally anticipated. The amendment bill proposes to manage the letting of apartments, not to prohibit the practice, to provide some structure around the ability to let apartments for shorter periods of time and to enable owners corporations to take action where the short-term letting of apartments is causing a loss of amenity for residents.

**The CHAIR** — All right, so there are a few points that I think we need to follow up on with respect to that. The first is: could we have a copy of your submission from 2016?

**Mr MAIR** — Yes.

**The CHAIR** — That would be helpful. Secondly, you mentioned an increase in complaints from 2012 going forward. Is that tabulated or recorded in any systematic way?

**Mr MAIR** — I could look into that for you to see if we could provide a list of those that we believe are, as we sort of suggested, concentrated in the Docklands area just to see if we can provide you with a bit of a breakdown of that.

**The CHAIR** — That would be extremely helpful, because what we do not have is systematic data of reports of problems and their location and the types of apartments that are involved, and that would be — —

**Mr MAIR** — The issue may be — but we will look into it — that these complaints might not often or always identify the fact that it is a short-term stay accommodation issue; it might just be a resident complaint about noise that could relate to the resident next door who lives there.

**The CHAIR** — Nonetheless, the trend would be helpful.

**Mr MAIR** — No, absolutely I agree.

**The CHAIR** — Is your contention from what you said a moment ago that there should be an arrangement whereby new apartments that have been brought forward should be in some way at an early point designated as places that are to be routinely let for short stays and that more hotel-style regulation in terms of safety and fire and other matters should be part of the construction and planning rules?

**Mr MAIR** — I will clarify that point and get back to the panel, if it is all right.

**The CHAIR** — That is my question to you. Parallel with that, are you aware of any cases where that lack of regulation has resulted in any risks or any further negative outcomes?

**Mr MAIR** — Sorry, just to clarify that question: are there any particular instances where there are these fire safety issues?

**The CHAIR** — Yes. You are asserting that there is a difference in the regulation, and I am accepting that.

**Mr MAIR** — Yes.

**The CHAIR** — My next question is: does that need to be changed going forward? Then my question is: are you aware of any specific instances or data or information that shows there is a higher or problematic outcome in some way?

**Mr MAIR** — Due to the nature of those fire safety — —

**The CHAIR** — Yes, due to a lack of hotel-style regulation, if I can strip it down to a phrase.

**Mr MAIR** — Yes, absolutely. We can certainly follow that up.

**Ms HARTLAND** — On the issue of fire safety, the evidence that was presented this morning from We Live Here was around the issue of people with disabilities, such as those in wheelchairs et cetera, coming into short stays. Would you see that as something that we should be seriously looking at? A particular owner has said that they are not required to tell the building management if there is someone in a wheelchair in one of their short stays, but then how do they know who needs to be evacuated or how do they know who is going to need extra assistance? Considering the Lacrosse building fire, you would think that this would be quite a serious issue. Does council have any control over those kinds of issues?

**Mr MAIR** — Issues in the sense of notifying in terms of, say, a short-term occupier having specific needs for disability access in the case of emergency?

**Ms HARTLAND** — No, not so much that but in terms of the fire regulations in buildings. Is that something council has control of?

**Mr MAIR** — Not so much control, but we can respond to complaints where they relate to fire and life safety issues within buildings. But I will have to look into it in terms of that specific issue around disability access, so I will take that on notice.

**Ms HARTLAND** — I know you are going to come back to us with the numbers of complaints.

**Mr MAIR** — Yes.

**Ms HARTLAND** — It would also be really interesting to get a sense of not just the numbers of complaints but the general location, if that is at all possible.

**Mr MAIR** — Yes, absolutely.

**Ms HARTLAND** — Because the evidence we have just had from the Southbank Residents Association is it is not such a big problem there. Clearly it is a massive problem in Docklands.

**Mr MAIR** — In Docklands yes, absolutely, and I do not think that would be an issue to clearly identify the Docklands as a problem area.

**Ms HARTLAND** — Often the questions that people are asking of council are outside of council's reach, but then people are incredibly frustrated because they have nowhere to go with their concern.

**Mr MAIR** — Yes. Particularly in the short term obviously there is not a lot we can do in that regard. We are limited, I guess, from a building safety compliance point of view to take any action, and I think that is probably bearing out a lot of frustration. Victoria Police, in the first instance, is who our call centre will refer people to to resolve the issues, which you can imagine would be frustrating.

**Ms HARTLAND** — This one you will probably need to take on notice. Does council have a position on whether the bill we currently have is going to be adequate or whether it needs to be amended?

**Mr MAIR** — Yes, absolutely. I can come back to you on that.

**The CHAIR** — And if so, how?

**Mr MAIR** — Yes.

**Mr MELHEM** — I note the council was previously involved in litigation in relation to short-stay accommodation on the basis of building consent; you talked about that earlier. Does council have a current position on the merits or otherwise of short-stay accommodation in the CBD area?

**Mr MAIR** — We can get a position back to you on that, if you like.

**Mr MELHEM** — I think earlier you also talked about the complaints you were receiving. Are you able to either tell us now about, or maybe take it on notice, the nature of complaints received by the City of Melbourne in relation to short-term accommodation? Have you got any data about what the nature is? I think it has been asked before.

**Mr MAIR** — Yes.

**Mr MELHEM** — Are you going to provide that to us?

**Mr MAIR** — Absolutely, yes, in the same context that we were talking about earlier.

**Mr MELHEM** — Based on all that and the experience of the City of Melbourne, do you think the bill itself in its current form goes a certain way towards addressing some of the issues we are facing in the state or in the city in relation to short-term stays?

**Mr MAIR** — Our submission is basically saying that it is definitely a step in the right direction, but in terms of any potential improvements to the bill, we can take that on notice and provide that back.

**Mr MELHEM** — I think earlier you talked about that one of the issues you have is — I will call them clients — the people who use short stays are normally there for a day or two or seven days and you cannot deal with them because they have already gone.

**Mr MAIR** — Yes.

**Mr MELHEM** — That is why the bill is basically putting the responsibility on the provider or the host to be automatically, by default, liable for the action of their clients. That would be a step in the right direction to make sure we get some redress to address the concerns or some of the complaints we experience. Do you have any comments on that?

**Mr MAIR** — No additional comments on that. I would say in our submission we are looking to highlight probably some of the areas where we do have control, which are around fire and life safety. So on the points you have noted today we will definitely get back to clarify whether or not the bill goes far enough or whether there are any changes we would like to see to address that.

**Mr MELHEM** — Do you have any comments to make about the owners corporations being given more powers, for example, to regulate versus what has been proposed in the bill?

**Mr MAIR** — I apologise, but not personally, no. It is not my area of expertise, but I can get you some comments on that, if you like.

**Mr MELHEM** — Thank you.

**The CHAIR** — Thank you. We may well come back with some further questions for the City of Melbourne.

**Mr MAIR** — That is fine. My apologies again on behalf of Angela for her not being able to appear today.

**The CHAIR** — The secretariat will be in touch. Thank you very much.

**Mr MAIR** — Fantastic. Thank you very much.

**Witness withdrew.**