

31 October 2017

Director, Housing Policy
Department of Planning and Environment
GPO Box 39, Sydney NSW 2001

By email: STHL@planning.nsw.gov.au

Dear Sir/Madam,

A Response to the Short-Term Holiday Letting (STHL) Options Paper

STHL in Strata Properties

This submission has been prepared and lodged by the Strata Committee for SP61138 at . Our primary interest is the effect of STHL on strata properties.

Living in an apartment building is community living. The actions of one resident can impact the lives of numerous other residents who live around them.

Our building, comprises 109 apartments in 2 buildings, many with views of Sydney harbour and the Sydney CBD. In the current Sydney market, entry price to buy into our apartment complex is about \$2.5m. The ratio of owner occupiers is 80%. The demographic of residents typically is retirees, empty nesters and young families.

Our Owners Corporation has experience of STHL which has caused significant disruption to those living around the apartment being used as a hotel room. Our building is a residential building and community where, given the nature of the building construction, residents need to be respectful and mindful of those living around them. Our experience with STHL was that the guests were unaware of rules and accepted norms for disposal of rubbish, parking and noise levels. We are also concerned that in the event of a fire those persons would not be familiar with established evacuation procedures. The greatest inconvenience was caused to the neighbour below when every few days guests would pack in the early hours for departure to the airport waking this neighbour in the process.

This is not the fault of individual guests but a demonstration that our building is not fit for the purpose of STHL. Fortunately Leichhardt Council was helpful in enforcing the prohibition of STHL on this occasion.

Letting of a Spare Room

A host letting out a spare room, the original concept behind Air BnB, is not seen as a problem in our strata building as there is always a host on site who can manage their guests and the Strata Committee (SC) has quick access to the resident owner should a problem arise. We do not see any need to regulate or otherwise control this type of activity.

Letting of a Whole Property

The more difficult STHLs are where it involves a whole dwelling with no resident owner present, especially when in what is essentially a residential building rather than a building in a tourist zone or coastal holiday zone.

We interpret STHL as furnished rentals for periods of one night up to, say, one month, with AirBnB being the typical platform but extending to other sites and apps such as Stayz.

Where an apartment is set up for STHL either by an owner or a tenant who is subletting as a STHL operator, **a By-law prohibiting STHL in a strata building should be permitted if it is supported by the majority of owners.** The right of one non-resident owner to operate a STHL should not exceed the rights of a majority of other owners to have secure and quiet enjoyment of their homes.

There has been lots of press about buildings in central and beach side Sydney that have suffered adverse effects from STHL (noise, partying, rubbish, anti-social behaviour etc) to the point where apartments in some buildings are virtually unsaleable because of this and the lives of people who call those buildings home have been badly affected. They call it the disruptive economy but this aspect of it is unfairly disruptive.

In another scenario, a building such as ours has a very high owner-occupier ratio because people have a desire to live in our community and call their apartments home. They value 'quiet enjoyment' in a secure environment with a strong sense of community. They do not want their homes transformed into a de-facto hotel during weekends and holiday periods. They do not want an ever-changing parade of strangers walking through their corridors and using their swimming pool. In this scenario, **a majority of home owners in a residential strata building should be able to legally prohibit STHL in their buildings.**

Control of STHL in an apartment building

If a majority of owners accept STHL in their building, there needs to be much tighter control than at present.

When problems arise in STHL, it is usually the Strata Committee that must deal with the fallout and pursue the corrective action. Strata Committees (SCs) comprise volunteer owners who help manage the common property. It is not their role to police and manage issues with STHL, especially if it involves long and convoluted processes through Tribunals that inevitably occur several weeks after the complaint has been made. The offenders are long gone and the apartment owners can be difficult to pursue.

Impacts of STHL in a strata apartment building

The main impacts of STHL in a residential apartment block are:

- **Noise.** This can result from STHL tenants entertaining themselves and their invited guests on the apartment balcony late into the night or coming and going noisily late at night. Loud conversation and laughter in corridors and lifts and slamming of doors when coming and going. Loud conversations on balconies going late into the night and "woo-girls", who shriek "woooo!" after a couple of wines. Similarly, women who shriek with high decibel laughter at

anything that is said after a couple of wines. Loud 'doof doof' music. Men using loud, expletive laden language after a few drinks.

- **Behaviour of guests.** Often the worst behaved are the guests of the STHL tenants who have been invited in for a party. They don't care about anything as they are only temporary guests.
- **Waste.** Empty bottles in the garden and general rubbish piled up outside the door can be typical. Incorrect use of our recycling facilities, eg dump all the garbage into the nearest bin, is a great frustration to other owners who are trying to do their bit for the environment.
- **Use of amenities.** Taking of glass and alcohol into the pool area is at the top of the list. Smoking and stubbing out butts into the lawn or garden, using unacceptable language.
- **Parking.** Use of car wash bays for guest parking is extremely frustrating for residents. Use of visitor parking for the short term tenants' excess vehicles is also a breach of by-laws.
- **Anti-social behaviour.** Specifically, the flicking of cigarette butts over balcony railings. One of our residents had a lit cigarette butt land on her shoulder one night and it burnt a hole in her clothes.
- **Security.** New STHL tenants arriving every other weekend introduces a steady stream of strangers to the apartment complex. Some residents will feel uncomfortable about strangers being in their building, which is their home, not a hotel or holiday resort.
- **Washing and beach towels.** A common strata by-law is that there should be no washing visible from any balcony. Holiday makers will typically hang beach towels over balcony railing and hang their washing where ever they see fit.
- **Security Access.** Security doors are propped open to allow those who don't hold a security key to have access to the swimming pool area.

Generally, STHL guests are unaware of the particular building's By-laws and don't care anyway as they are on holidays.

Managing the Impacts of STHL

Prevention is far better than attempting to penalise after the fact. Strata Committee members are volunteers and their focus is on managing their apartment buildings, not getting caught up with constant policing of by-laws.

Best practice to manage the impact of STHL and would include, but not be limited to, the following:

1. **Registration** of an apartment and their owners for STHL **with local Council** to manage compliance with all regulatory matters.
2. **Registration** of STHL apartments **with the Strata Manager and the Strata Committee.** Personal contact details must be given rather than hiding behind an agent. If there are problems with the tenants the owner needs to be contactable and be able to respond to resolve the issue. The apartment owner must be responsible for the conduct of their tenants.
3. **A Code of Conduct** must be established at State level with specific clauses relating to strata properties and include penalties for breaches.
4. **Strata By-laws** that require STHL guests be met on arrival for check-in to the apartment and induction into the building by a host who could be the owner or an associate. Guests must not be allowed to collect keys from an agent and let themselves in.

5. **Bond.** Any apartment engaging in STHL should be required to lodge an additional bond with the Owners Corporation to cover damage done by guests and any claim on the bond to be processed quickly so to allow the owner to claim from the guest concerned.
6. **Strata By-laws** that require guests to be presented at check-in with a summary of the building by-laws that are relevant to their stay including but not limited to security access, noise, where to park and where not to park, use of the swimming pool, waste disposal, smoking, washing on balconies etc and **should sign a copy to acknowledge they have read and understood them.**
7. **Three strikes and you are out.** If repeated complaints are received by the Strata Manager regarding an apartment or an owner or operator who operates a number of apartments in the building for STHL, the Owners Corporation should have the power to prohibit the use of the apartment for STHL for a period of time or perhaps permanently if the situation warrants.

Taking owners to tribunals where penalties may be imposed is a lengthy process and is hugely time consuming for SC members and places an unfair burden on the SC. In the meantime the apartment owner continues to operate their business unimpeded.

The main aim of any management of STHL is to encourage compliance with the By-laws of the particular building so that the majority of residents continue to have peaceful enjoyment in their homes. The threat of prohibition is the strongest deterrent to thoughtless or careless STHL operators.

Peter Madigan

Strata Committee Chairman

On behalf of the Owners of SP61138 Colgate-Palmolive