

30 November 2013

Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane Qld 4000
Email: lacsc@parliament.qld.gov.au

Dear Sirs

Re: Property Occupations Bill 2013
Motor Dealers and Chattel Auctioneers Bill 2013
Debt Collectors (Field Agents and Collection Agents) Bill 2013
Agents Financial Administration Bill 2013
Fair Trading Inspectors Bill 2013

The Unit Owners Association Queensland (UOAQ) is the single organisation in Queensland representing both investment unit owners and residential unit owners. The UOAQ also recognises the importance of our members to the Queensland tourism industry. There are two distinct groups involved in unit ownership; the investment owners who provide the tourist accommodation, and the long term residential owners seeking an apartment complex that provides the amenity, level of health and safety commensurate with community expectations for places of permanent residence. Unfortunately these two groups of occupiers, in most circumstances, are incompatible; however, the body corporate (building owners) are required to safeguard the interests of both groups of owners. This dual responsibility has been displayed in the action taken by the body corporate against the Phoenician Caretaker/Letting Agent when they were revealed as defrauding unit owners of rental income by inflating letting commissions. Also the recent Carmel by the Sea prosecution of the Caretaker/Letting Agent for diversion of letting unit owner's funds to their own leaseback units. Thus the dual responsibility of the body corporate to oversee the conduct of the Caretaker and Letting Agent has been clearly demonstrated. Moreover, the body corporate, not the letting agent, own the building.

Submission

The UOAQ has been concerned for many years at the lack of disclosure and transparency requirements of PAMDA, and has sought during the current review to have these concerns addressed.

Currently full payments from guests are not disclosed to unit owner clients, and rental revenue is frequently passed through associated companies of letting agents, subjected to significant commissions (around 25%) without disclosure of those commissions to the clients of the letting agent.

Letting agents make charges against rental revenue of clients without disclosing the mark up they have imposed on the actual cost incurred.

The proposal in the Bill to remove caps on commissions without adequate safeguards is a recipe for disaster for rental unit owners. The majority of rental unit owners are absentee owners both overseas and interstate. They have little or no knowledge of market value commissions and the letting agent has a vested interest in achieving the highest possible commission rate and this is without the pyramid commissions currently being applied by travel agents and letting agents where 12% legislated commission rates are being jacked to 25% by dishonest letting agents.

The further proposal in the legislation to make letting agents NOT responsible to the body corporate removes the last line of protection for rental unit owners from unscrupulous letting agents.

As explained above, the body corporate has a dual responsibility to rental unit owners and residential unit owners, and body corporate committees usually have at least one absentee rental owner representing the interests of rental owners. The standard of visitor accommodation constitutes a major part of the longer term memory of the visitor/tourist experience, and certainly is one of the major subjects of recommendation to friends and associates. Thus the standard of accommodation has considerable impact on new and repeat tourism business. The body corporate committee through the rental owner representative ensures that the rental agent as part of his caretaking duties performs to the required standard of presentation of the complex.

This safeguard will become increasingly important if as proposed in the Bill, rental agents are to be permitted to service more than one building, and will not be required to live within the building.

The UOAQ has serious reservations as to the service levels of tourists if the letting agent is not accommodated on site. Moreover, the enforcement of by-laws and proper conduct of visitors and residents, currently the responsibility of letting agents, has not been addressed in the Bill.

Commensurate disclosure and transparency provisions of the above mentioned legislation is essential to provide greater consumer protection to owners of properties involved.

Wayne Stevens
President