

LAPCSESC
Submission 009



Short Punch & Greatorix

Gold Coast Law Chambers
120 Bundall Rd, Bundall Queensland
PO Box 5164 Gold Coast MC Qld 9726
Phone (07) 5588 2277 • Fax (07) 5589 8745
www.spglawyers.com.au

Our ref: JDAP:BNW

22 July 2011

Ms Barbara Stone MP
Legal Affairs, Police, Corrective Service and
Emergency Services Committee

FACSIMILE NO: 3406 7070

Dear Ms Stone

RESIDENT LETTING AGENTS – PROPERTY AGENTS BILL

I note your calls for submissions in respect of various bills particularly relevant to the Property Agents and Motor Dealers Act 2000 (PAMDA). My area of expertise relates particularly to the licencing under PAMDA of persons or companies which operate on site letting activity at strata titled accommodation buildings in Queensland.

My background is that I am a solicitor and have practiced in Queensland since 1969, particularly in the area of property development and building management, through strata titling, and I am a board member (since its inception) of Gold Coast Tourism as well as Sustainable Development Gold Coast Inc.

I wish to record that Queensland is unique within Australia in its ability to successfully protect and provide for the interests of strata title owners and on site letting arrangements through its specific Resident Letting Agents Licence provisions of PAMDA. These provisions intertwine with the provisions of the Body Corporate and Community Management Act to integrate on site management in a regulated fashion in our strata titled accommodation buildings.

The types of licence issued cover both short and long term stays in strata titled accommodation.

This has resulted in some 4,000 or more strata titled accommodation buildings in Queensland being uniquely managed on site, via a specialised licencing arrangement covered in PAMDA, the BCCM Act and the Corporations Act. In other states such licencing only occurs on a very limited basis.

This licencing system provides rigorous controls (as would apply to a letting agent conducting any form of real estate agency style lettings in Queensland) but limited to buildings which are strata titled.

If you do not receive all pages, please contact this firm immediately on (07) 5538 2277.

This facsimile transmission is intended only for the use of the addressee and may contain information that is privileged, confidential and/or exempt from disclosure. If you have received this communication in error:

1. any dissemination, distribution or copying of this facsimile is strictly prohibited; and
2. would you please notify us immediately by telephone (reverse charges) and return the original facsimile to us.

- 2 -

Ms B Stone

22 July 2011

The licencing per building means that each letting owner wishing to utilise the on site letting agent is dealing with the party that is regulated by a licence and has a trust account. This protects the rentals for the absentee owners. On the other hand, the licensee knows the parameters applying to the expenditure of money and the taking of commissions from their trust accounts.

I appreciate that under national licencing investigations there is a desire for a commonality within Australia of licencing laws. However, Queensland is ahead of all of the other states in its provision of a secure method for absentee owners to invest in accommodation arrangements, affording controls and protections to both parties. Simply because other States may not have the same needs or regulations does not mean that Queensland should abandon what is particularly successful and effective.

There are many instances being experienced currently where the nationalisation of laws adversely effects Queensland. It is the role of the Queensland Government to ensure that the commerce and development of the State does not suffer by the removal of laws and regulations peculiar to Queensland which are successful and necessary.

I note that the current planned legislation replacing PAMDA still provides for continuation of the Resident Letting Agents form of licence.

Before any laws are altered as a result of the national activity (NOLS), I would respectfully suggest that there be case studies undertaken by your government to determine the successful nature of the current laws and to measure the need for any change, rather than simply following what may be desired by other states in uniform arrangements.

We have tourism infrastructure in Queensland like no other state. It needs the investment of capital particularly into its accommodation industry. Particular laws have been built up to cater to the needs of Queensland within the state and they are successful. The success can be demonstrated through enquiry (which does not seem to have been undertaken by the Government in dealing with the proposal for uniform laws).

I strongly urge your Committee to stop and consider what will happen to Queensland and its tourism industry particularly (apart from the needs of providers of permanent accommodation) by the removal of the current licencing arrangements. There are billions of dollars invested in this accommodation infrastructure which are reliant on the present laws.

I shall be more than happy to provide further input to your Committee from my knowledge and position, to assist in a positive outcome if that is desired. I look forward to your contact in that respect.

Yours faithfully,



J D A PUNCH OAM

Contact: Lesley Hermiston

Direct phone: 5570 9322

Direct fax: 5539 8745

Email: lch@spglawyers.com.au

N:\JDAP\GENERAL\Stone fax 200711.doc