

Lash / Condo Law

— OUR CONDO EXPERTISE

SHORT TERM STAYS (HOTELING)

— PRACTICAL ADVICE, CREATIVE SOLUTIONS,
COST EFFECTIVE

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LASH CONDO LAW'S PRACTICAL GUIDE TO SHORT TERM STAYS (HOTELING)

With the onset of businesses such as Airbnb, many corporations have been forced to turn their mind to the issue of short term stays. For the unfamiliar, Airbnb and other similar providers are web-based businesses that provide alternatives to hotel accommodations. Unit owners and tenants (sometimes unbeknownst to owners) may advertise the use of their units on websites for short periods of time similar to hotels.

For condominiums, many owners and boards of directors have expressed concerns over the constant arrival and departure of short term visitors who feel no obligation to be good houseguests. There is also a general sentiment that short term use of units detracts from a sense of neighbourliness and community that many unit owners desire.

This pamphlet provides practical advice on steps that can be taken by a corporation to effectively address this issue.

STEP 1

REVIEW GOVERNING DOCUMENTS

Review the Declaration, By-laws and Rules (the “Documents”) to understand what restrictions or prohibitions are in place relating to short term stays.

Look for:

- Minimum lease terms (i.e. 6 months);
- Transient use prohibitions (i.e. short term stays); and
- Explicit permissions to use units for short term stays.

If the Documents do not address short term stays, then Rules may be adopted to restrict or prohibit this type of use.

Remember: Rules must be consistent with the Declaration.

If short term stays are permitted in the Declaration, consider amending the Declaration to prohibit this type of use. Speak to legal counsel to discuss how to handle those units who may currently use their units for short term stays.

Alternatively, the corporation can adopt Rules that set out a procedure (i.e. check-in and check-out) for unit owners who use their units for short term stays to help ensure the safety and security of residents and mitigate some of the risk that may be associated with short term stays (provided that the Rules are consistent with the Declaration).

Look into whether the short term use of the unit is permitted in accordance with municipal by-laws. For example, the zoning requirements for the site may not permit this type of use.

STEP 2

ADVISE RESIDENTS AND STAFF

The residents and staff are the eyes and ears of the building. Consider the following tips to assist with enforcement:

- Ensure that residents are familiar with the Documents
 - Circulate the provisions that restrict or prohibit the use of units for short term stays.
 - Notices should be sent to each resident or posted in elevators or on bulletin boards/websites reminding residents of the restrictions or prohibitions.
- Provide clear direction to residents as to what to do in the event that a resident believes that units are being used for short term stays in breach of the Documents.
 - For example, residents should be advised to immediately inform on-site security or email property management in the event they suspect that units are being used for short term stays. Residents should further be advised to document all observations including the date and conduct of the occupants.
- Security or concierge should be directed to be mindful of the issue. If visitors to a unit are coming and going from the building (especially with suitcases), security/concierge should log this conduct and/or attempt to converse with these individuals to determine if they live in the building or are just visiting.

TIP: Hotel goers may inadvertently disclose the nature of their stay with a “friendly” security/concierge who may ask them about their “stay” and where they found out about the rental.

STEP 3

GO ONLINE

Go online to see if the unit is posted on one of the many websites that offer these services. For reference, we have included a number of these websites below:

- [airbnb.com](https://www.airbnb.com)
- [vrbo.com](https://www.vrbo.com)
- [kijiji.ca](https://www.kijiji.ca)
- [roomorama.com](https://www.roomorama.com)
- [craigslist.ca](https://www.craigslist.ca)
- [flipkey.com](https://www.flipkey.com)
- [tripadvisor.ca](https://www.tripadvisor.ca)
- [homeaway.ca](https://www.homeaway.ca)

STEP 4

DOCUMENT YOUR STEPS

It is crucial to properly document all steps before turning the matter over to legal counsel.

- Gather incident reports and written or verbal complaints from owners.
- Obtain a copy of the advertisement from the website, which often contains a picture of the host (i.e. owner or tenant). Such documentation is compelling evidence that the unit is being used for short term stays.

STEP 5

ENFORCEMENT

Corporations should notify offenders of their non-compliance and demand that use of the unit for short-term stays cease immediately.

Any evidence that is gathered will assist property management and the board with enforcing the Documents. If the non-compliance by the owner or tenant continues, the matter could be escalated to legal counsel where the complaints, advertisements or incident reports gathered will assist with effective and timely enforcement (and recovery of all legal fees).



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LASH CONDO LAW

Practical Advice, Creative Solutions, Cost Effective

We are committed to helping our clients make informed decisions and create strategies to successfully resolve condominium issues.

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