



## The Last Word

By Brian Horlick

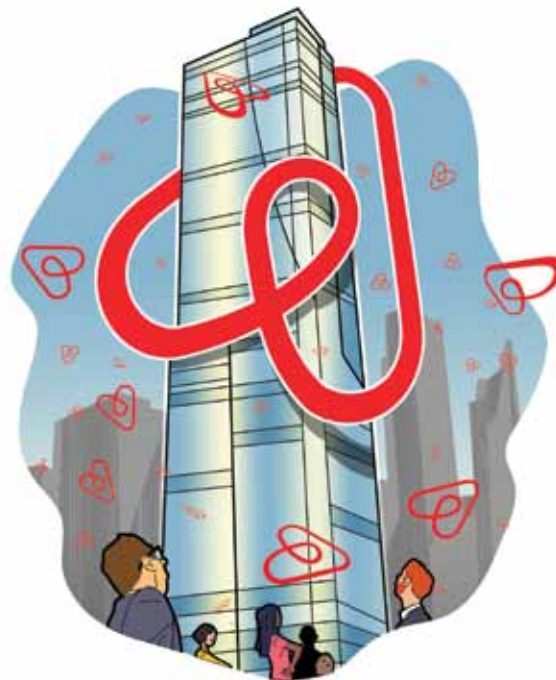
B.Comm., B.C.L., LL.B., ACCI, FCCI

Horlick Levitt Di Lella LLP

and Luis A. Hernandez

B.A., J.D.

Horlick Levitt Di Lella LLP



# Airbnbs – Sharing is Caring, or is it?

### Are our homes rapidly becoming unregulated hotels?

The future is here and it feels like it happened all of a sudden. You can have your groceries and alcohol delivered to your home, you can order a car to the location on your phone, and you can send money to your friends by e-mail. These technological changes have disrupted the way business has been traditionally conducted and sharing is now the “in” thing in 2017.

Airbnb, a leader in a growing market of “sharing services”, has been a blessing to many and curse to others. Airbnb uses an internet platform to provide, as they describe, a “marketplace for people to list, discover, and book unique accommodations around the world”. In other words, it allows people to monetize their extra space by using it in a hotel-like fashion.

Those who see Airbnb as a blessing can range from the occasional snowbirds looking to make an extra dollar while they are on vacation to the savvy investor who sees a lucrative business opportunity. Those who see it as a curse tend to be resident owners in condominiums who are finding that their homes are rapidly becoming unregulated hotels.

As a consumer, the appeal of staying in a condominium instead of a hotel is not hard to figure out. The advantages can be plen-

tiful including larger living spaces, access to amenities such as kitchens and laundry facilities, and, of course, they often end up being more affordable. Services like Airbnb have changed the hospitality industry and created new opportunities for many while leaving others – namely residents in condos – bearing the consequences.

*So what do we do now that Airbnb is here?*

For those currently looking to buy, do your homework and research the condo before making a purchase. Buyers beware: many new condos have provisions in their declarations that explicitly permit units to be used for transient tenancy services. That being said, numerous condos have provisions – such as “single family” use provisions – which in effect forbid the use of units for transient tenancies i.e. Airbnb.

For those already living in condos with no clear cut lines regarding Airbnbs, it is important that communities arrive at a consensus of how their condos should be managed. There is likely never to be unanimous agreement, but ideally a majority opinion can emerge. One of the first, and most important, decisions that a condo community must make is whether they are willing to tolerate Airbnbs at all, and if they are, how should they regulate them?

Declarations and by-laws are notoriously difficult to change so condos whose governing documents do not address transient tenancies are able to impose regulation by introducing rules. Unfortunately, rules do not provide for a perfect solution because of how easy it is to implement or repeal them (rules do not require approval by a majority of owners). Moreover, rules made by condo corporations must be reasonable, which often means allowing for temporary grandfathering of individuals already using their units for Airbnb.

If a condo chooses to regulate Airbnbs – as opposed to outright prohibiting them – there are several concerns that should be considered. Typical provisions in regulatory rules should include requiring the owner to have commercial insurance for the unit, requiring the owner to supply the corporation with their guests’ identities, limiting guest access to certain amenities such as visitor parking, and regulating the use of cleaning staff and their equipment such as carts.

Realistically, Airbnbs and the sharing economy appear to be here to stay. Condos need to be aware of the options available to them and remain cognizant that these are issues which should be addressed proactively, not reactively. **CV**