

We The People
Program 285 March 19, 2018
We the People 285 Persecution in Paradise



Good Day to you. One of the worst most evil characters of the twentieth century was Joseph Stalin. He was a dictator and a murderer of woman and children. Stalin suppressed and controlled the people with an iron fist and had their possessions taken just as is happening in South Africa today where the government has enacted legislation to take the farms of white people without compensation. It may be done by changing the law but the effects and morality are no different to the property taken by Stalin. That theft is a violation of human rights and laws in a civilised world and it seems Africa, parts of south America, Russia, China and North Korea are places where dictators thrive and citizens have little real tenure over their property and homes. Now I introduce Zakhar and Yuvgena Oskilko who in 1931 lived in a village 130km south of Ukraine's capital Kiev. Stalin's men had already confiscated all the possessions of the Oskilko's but came back in the dead of winter to persecute them again demanding they hand over their keys and leave their home immediately. When Zakhar and Yuvgena refused they were dragged out into the snow and hanged.

Now move forward to today in Southport where their great granddaughter Aldwyn Altuney resides. Aldwyn is a pleasant lady with an infectious smile and a positive outlook. It appears her crime is to rent out a room in her home to AirBNB visitors to make ends meet. AirBNB is a global 'home share' system of bookings and can be compared to Uber filling the expensive gap the taxi monopoly created. I remember my mum and dad doing the same thing and taking in students to help with living costs. AirBNB just creates a stable accountable platform across the world to facilitate this and serves 4 million lodgings in over 191 countries with a total booking history of 200 million people. Typically you can book a room in Southport for between \$30 and \$80 which is why the big end of town don't like it. Now enter the Gold Coast Council which clearly wants a cut of the action a bit like the mafia. In a Stalin like tone Aldwyn Altuney received a nasty threatening 'show cause notice' from the Council to cease taking bookings immediately or be fined up to \$567,675. Yes you heard correctly, that's a fine of well over half a million dollars which would mean the loss of Aldwyn's home and assets. Further the letter says and I quote... **"cease using the premises for the purpose of Short term accommodation and removing all materials, equipment and furniture associated with the operation....."**. Surely this is a just a bureaucratic and political version of Stalin's methods where you will do as you are told or be financially hung. Aldwyn had an extension built on her home in 2011 for more storage and never did so to allow for room stay as she didn't know about AirBNB at the time.

There are about 6,000 homes across the Gold Coast room sharing and I am pretty sure the owners don't know about this. However the Council being the lovely caring sharing bureaucracy it is can provide a license for up to \$15,000 after legal fees if they choose and its entirely at their discretion. A persons only path of review is the Council who then, as always, sit in judgement of their own decisions just like Stalin did. The minister for local government will not be interested because under the **'Partners in Government Agreement'** he can cover his eyes and block his ears to all the nasty stuff on the Gold Coast. Now I'm reasonably sure by the dictatorial tone of the notice the Council have the law technically on their side but not the ethics, morality, fairness or public interest which we the people are robbed of daily. By the way, it's ok if you have your family or friends in to stay or non paying guests and so the result is that a bum in a bed is not really a bum in a bed and only some bums must pay. This is a ludicrous anti free enterprise anti social activity by the Council and is designed to garner a share of what they see as a lucrative **'piece of the action'**. There are far too many free beds at Council as the fat cats live off our rates and initiative. The Council appears to be a law unto itself and this is just another persecution for Aldwyn Altuney's family tree and ours too for that matter. Apparently the Council justify their actions in part by developing a very tenuous link to party houses which is unsubstantiated and simply illogical.

We can only pray that after the politically correct Commonwealth games have been and gone that a negligent lazy State government sends the troops down to despatch this lot from Council. The show cause notice is posted on the Sentinel web site.

Until next time this is Kent Bayley (Scroll down to 'Show Cause' Notice)

SHOW CAUSE NOTICE

TO: Aldwyn Mary Altuneg
of PO Box 114
SOUTHPORT BC QLD 4215
as owner
of premises described as Lot 29 S182155
situated at 8 Salmon Street Southport in the State of Queensland (premises)

Take notice that you are invited to show cause as to why an enforcement notice should not be issued to you pursuant to section 168 of the *Planning Act 2016* (the *Planning Act*).

The enforcement authority, Council of the City of Gold Coast (Council) reasonably believes you have committed or are committing a development offence of contravening section 165 of the *Planning Act*, and is considering giving an enforcement notice to you because:

1. The premises are located in the Medium Density Residential Zone in the Gold Coast City Plan (City Plan).
2. Following receipt of a complaint, a Council Development Compliance Officer inspected the premises on 15 January 2018 and ascertained that two self-contained areas have been established within the approved class 1A two (2) storey dwelling house.
3. The inspection further revealed that you as owner occupy the first floor and offer a second bedroom on this level on Airbnb for Short-term accommodation, and that you manage the use of the bedrooms at ground level in a manner akin to Rooming accommodation.
4. The City Plan defines **Short term accommodation** as the following:

Premises used to provide short-term accommodation for tourists or travellers for a temporary period of time (typically not exceeding three consecutive months) and may be self-contained. The use may include a manager's residence and office and the provision of recreation facilities for the exclusive use of visitors.

5. The City Plan defines **Rooming accommodation** as the following:

*Premises used for the accommodation of one or more households where each resident has a right to occupy one or more rooms does not have a right to occupy the whole of the premises in which the rooms are situated may be provided with separate facilities for private use may share communal facilities or communal space, with one or more of the other residents. The use may include:
rooms not in the same building on site
provision of a food or other service
on site management or staff and associated accommodation.
Facilities includes furniture and equipment as defined in the Residential Tenancies and Rooming Accommodation Act 2008.*

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6. Pursuant to the City Plan, in the table of assessment for the Medium Density Residential Zone the use, Short term accommodation is listed as impact-assessable development, which requires a development approval.
7. Pursuant to the City Plan, in the table of assessment for the Medium Density Residential Zone the use, Rooming accommodation if accommodating more than 4 unrelated people is listed as impact-assessable development, which requires a development approval.
8. A search of Council records indicates that no development application has been submitted or development approval given for the premises to be used for the purpose of Short term accommodation or Rooming accommodation.
9. Pursuant to section 165 of the Planning Act, a person must not use premises unless the use is a lawful use.

On this basis Council is of the belief that an enforcement notice should be given to you, pursuant to section 168 of the Planning Act, requiring you to:

- (a) **cease using the premises** for the purpose of Short term accommodation and removing all materials, equipment and furniture associated with the operation of Short term accommodation; and
- (b) **cease using the premises** for the purpose of Rooming accommodation and removing all materials, equipment and furniture associated with the operation of Rooming accommodation; and
- (d) **restore the premises** to a state that complies with the City Plan.

If you wish to seek approval

You may seek to obtain approval to use the premises for the purpose of Short term accommodation and Rooming accommodation by submitting to the Council an application for a development approval for a material change of use. Such application would be subject to a non-refundable fee and the outcome cannot be guaranteed. If you choose to submit such application, you must cease the unlawful use until such time as approval is obtained.

Please note, if you choose to submit an application for a development approval for a material change of use, you are invited to contact Council's **Planning Enquiries Centre** on telephone number **07 5582 8708** to discuss the application process. You may also wish to contact a planning consultant to assist you with the application process. Planning consultants are listed in the telephone yellow pages, under "Town and Regional Planning".

For your information, section 172 of the Planning Act provides as follows:

172 Application in response to show cause or enforcement notice

If a person applies for a development permit in response to a show cause notice, or as required by an enforcement notice, the person—

- (a) must not withdraw the application, unless the person has a reasonable excuse; and
- (b) must take all necessary and reasonable steps to enable the application to be decided as soon as practicable, unless the person has a reasonable excuse; and
- (c) if the person appeals the decision on the application—must take all necessary and reasonable steps to enable the appeal to be decided as soon as practicable, unless the person has a reasonable excuse.

Maximum penalty—4500 penalty units (currently \$567,675.00 for an individual or \$2,838,375.00 for a corporation).

How to respond to this notice

You may make representations about this show cause notice. If you choose to make representations then your representations must be in writing and sent to Council at the following address:

The Chief Executive Officer
Council of the City of Gold Coast
PO Box 5042
GOLD COAST MC QLD 9729

Your written representations should be marked with the following reference to assist Council to give prompt consideration of this matter:

PN35272/16(P3) – Attention Roxanne Gray, Development Compliance.

When to respond to this notice

Your written representations must be received by Council **no later than 5.00pm on Thursday 8 March 2018** (due date).

If you do not respond to this notice

In the event that you fail to show cause within this time, and if Council reasonably believes you have committed or are committing a development offence, an enforcement notice will be issued to you.

If you cannot "show cause" you may wish to acknowledge this in writing and outline how you intend to remedy the offence. You may wish to inform Council what work program you will implement to remedy the offence, how long that will take, and when you will comply with the Planning Act.

If you do respond to this notice

If Council still believes it is appropriate to give the enforcement notice for any or all of the matters raised above, after considering all representations made by you about the show cause notice within the time stated in the notice, then an enforcement notice will be issued to you.

Penalties

It is an offence against section 165 of the Planning Act to use premises unless the use is a lawful use. Upon conviction by a court for a development offence of carrying out assessable development without all necessary development permits in effect the maximum penalty, which can be imposed under the Planning Act, is 4500 penalty units (currently \$567,675.00 for an individual or \$2,838,375.00 for a corporation) or 17,000 penalty units (currently \$2,144,550.00 for an individual or \$10,722,750.00 for a corporation) if the assessable development is on a Queensland heritage place or local heritage place. In addition, legal costs can be claimed and a court may make other orders against you.

If an enforcement notice is issued to you, it is an offence under section 168(5) of the Planning Act to contravene the enforcement notice. Upon conviction by a court for the offence the maximum penalty, which can be imposed under the Planning Act, is 4500 penalty units (currently \$567,675.00 for an individual or \$2,838,375.00 for a corporation). In addition, legal costs can be claimed and a court may also make other orders against you.

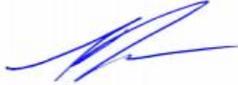
Further, in relation to a corporation, section 227 of the Planning Act provides that an executive officer of a corporation commits an offence against an executive liability provision of the Planning Act, and did not take all reasonable steps to ensure the corporation did not engage in the conduct constituting the offence. The maximum penalty which can be imposed on an executive officer for committing an offence against section 227 of the Planning Act is the penalty for a contravention of the executive liability provision by an individual.

In addition to the above, Council may also issue penalty infringement notices (on-the-spot fines) of 20 penalty units (currently \$2,523.00) for an individual, or 100 penalty units (currently \$12,615.00) for a corporation.

Council may take action to commence prosecution or other proceedings for a development offence at any time regardless of this notice if it is considered warranted.

Please note that any response to this notice may be used by Council in any legal proceedings against you, whatsoever.

Dated this First day of February 2018.



Jason Rodgers
Acting Supervisor Development Compliance (Planning)
For the Chief Executive Officer
Council of the City of Gold Coast

(rg,td)

Please refer all enquiries regarding this notice to

Contact:	Roxanne Gray, Development Compliance
Telephone:	07 5582 8184
Council reference:	PN35272/16(P3)

Complaint Investigations and Information Privacy

Subject to IPP11(1)(a) of the *Information Privacy Act 2009*, it is Council's usual practice to disclose information about the progress of an investigation, and its outcome, to the complainant.

Information that may be disclosed

On receipt of a written request from the complainant, Council may provide the following types of information:

- The actions Council has taken to investigate a complaint matter (e.g. Council officers have visited the property)
- Any enforcement action which has been or is being taken (e.g. a fine, notice or other correspondence has been issued, resolution of the matter is now subject to legal proceedings)
- The outcome of the investigation.

If a complaint investigation finds no breach, Council may advise the complainant that based on information held by Council, no further action is required.

Complainants may also apply to view or purchase copies of show cause notices or enforcement notices that have been issued under the *Planning Act 2016* or the *Building Act 1975*.

Information that is not disclosed

The *Information Privacy Act 2009* (the Act) requires that Council must not disclose an individual's personal information to another person or entity unless the disclosure is made within the scope of specific exemptions as set out under IPP11 of the Act.

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