

Letters concerning the Accommodations Act

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24 April 2003

Mr. Rodney MacDonald
Premier, Province of Nova Scotia
One Government Place
Halifax, N.S. B3J 2T3

Premier: **Tourism Accommodations Act**

We recommend your Government defer the decision to repeal the 1995 Tourism Accommodations Act. This repeal is supposed to solve an economic problem, it does not; it may just make the problem worse. There should have been and needs to be a financial assessment to weigh the financial damage to the industry and loss of revenue to all levels of government caused by the estimated 500 or more unlicensed properties.

As the MLA for Inverness, you see these family tourism businesses when you travel the Ceilidh and Cabot Trail, or visit Baddeck, all in the rural and coastal communities, the “image” of Nova Scotia. These are seasonal family owned businesses struggling in a softening tourist market. They do not have the advantage of access to the business traveller, the one that buys rooms in the Halifax metro, where sales at the hotels continue to increase. The “unlicensed” property in the tourist area has a much more direct impact on the licensed owner in that same area, especially when they are practically competing side by side.

You are also well aware that of the 1100 or so “owners” in Nova Scotia, these divide along two lines. There are approximately 60 hotels and 10 resorts, and maybe 100 chain motels, in the more urban and prime locations, owned by multi-national investors, and which do not suffer financially. The 65 motels, 88 Inns, 414 B&B’s and 344 Cottage properties owners located along every Trail are primarily impacted. These family businesses have a far greater personal investment at stake compared to a shareholder of a multi-national. Room sales visitation to Cape Breton has dropped for the last 6-7 years. Destination Cape Breton identified over 65 of these unlicensed properties a year ago and most are renting in prime season, in the prime locations, many owned by non-residents.

Ask the Oran to show you the many ads that run in May and June. In 2007, the Department of Tourism was shown a new twist, namely ads of Real Estate agents who were now advertising such rentals.

In July 2006, your Minister Goucher and the President of TIANS, *BOTH* said in a press release that the growth in unlicensed properties (up to 500 from 250 in 2004) was having an impact on “sustainability”, (the economics) of the industry. If this “illegal” trade doubled in 3 years, then why in 2008 does the government believe the problem will be resolved by a repeal?

This was and is an economic problem. This issue began as the legal small businesses started to complain about the growth of the illegal businesses, and as we say, over the last 3 years the size of the problem has doubled. The licensed owners and several associations complained because they see the illegal and unlicensed affecting their revenue but also a bigger picture, they see that HST is not collected. They see that Commercial taxes are not being paid. They assume income tax is not paid, as many are non-residents.

500 properties renting for only 30 days a year is 15000 room nights at \$100.00, meaning a \$1,500,000 loss of business and a proportionate \$195,000 loss in HST, ANNUALLY, and this is a conservative estimate as many rent for \$200+ a day. Then, factor in that many of these properties are “summer homes”, their assessed values far exceed the average value, a further loss in municipal taxes. Why should the legal businesses absorb these indirect costs and the province help market these properties?

Six months after a Press Release recognizing the problem, a review of the Act was started in January 2007. The Minister proposed four options. Only Eight so-called “Stakeholders” were initially asked to participate in a “consultation process”. Initially the 1100 “owners” were excluded from this process. The industry was then confined to a 6-week deadline to make their recommendations to a Consultant (not the Department). The Consultant’s report (May 2007) did not document the choice of the eight stakeholders. We believe four, maybe five of the stakeholders, and one or two of the Regional Tourism Associations did ask that the licensing stay in place, the Act be enforced, contrary to what was stated in the House last fall.

From May until November 2007 there was basically no communication with the owners or the associations. This would suggest Minister Dooks “decision” on November 27, 2007 to repeal the current Act was made based on internal discussions, with the exception of TIANS, a signatory to the Press Release. This repeal decision also includes a decision to outsource inspections to a third party, which no one knew was on the table, yet the owners (who were excluded from the discussion) are told they’ll pay the costs. The Minister’s letter of April 9,2008 to justify the repeal makes no mention of the economic benefits of the decision to the industry.

So, we suggest that what we had in 2006 and still have in 2008 is the **same economic problem**. The 500 or so unlicensed properties that were there in 2006 are still here in 2008. These 500 “illegals” compete on almost a 1 to 1 ratio with the “legals” in some communities. The plan to repeal the Act actually improves the ability of the “illegal” to compete, still avoid paying sales and property taxes. They can now erect road signs, advertise in the local papers and buy websites without any restriction. Almost like an amnesty.

Unfortunately, this repeal also means the Minister will eliminate the legislated regulations that were the standards for the buildings, the rooms, the housekeeping in favour of a Third Party system that has no legal penalty. The reason many wanted the Act enforced was because losing the license was a deterrent. Now there will be no such deterrent. These 500 can now operate and also they have the choice to be inspected or not.

To summarize, this plan to repeal the Act should not proceed. The “consultation” process basically broke down once the owners and their associations were left out of the discussions from May 2007 until November 2007. The Department never shared its research after staff travelled to other jurisdictions, even that of our competition in other Atlantic provinces.

The Minister can easily test his decision without a repeal of the Act. After all in 10 years, there has never been one owner of an unlicensed property every served a legal action or taken to court, so what happened to all the complaints?

We represent a group of almost 200 accommodations property owners and investors. We asked for a level playing field and enforcement. We asked Minister Goucher in March 2007 to have the Justice Department explain what was needed to solve the purported legal problem of enforcement. No response. We suggest you ask your Minister of Tourism, Culture and Heritage, of Finance, Economic Development and of Justice to reassess the legal, financial and economic impact on the industry before taking the basically irreversible step of repealing the existing Act.

EMAIL Original

Peter Sheehan
President

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cc Opposition Leaders MacNeil, and Dexter



The Nova Scotia Bed & Breakfast Association
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Saturday, August 23, 2008

Honourable Rodney MacDonald (PC)
Premier, Office of the Premier
7th Floor, One Government Place
1700 Granville Street ; P.O. Box 726
Halifax, Nova Scotia
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Dear Premier

In late 2006, the Department of Tourism, Culture and Heritage (DTCH) initiated a review of the Tourist Accommodations Act (TAA). The initial impetus for this review was a series of complaints from licensed accommodations operators regarding the large number of unlicensed properties operating with impunity throughout the Province. Departmental estimates at the time suggested that there could be as many as 400 unlicensed tourist accommodation properties in the Province. The existence of this large number of unlicensed properties created unfair competition for the 1100 operators who were operating legally, represented a significant loss in revenue from fees and taxes to the Province and allowed no control over the quality of accommodations offered to tourists visiting the Province.

As the initial step in the review process, various stakeholders, including the Nova Scotia Bed & Breakfast Association (NSBBA), were asked to provide their opinion on four options being considered by the Department. Broadly stated, the options were:

1. Option 1 – Keep existing Tourist Accommodations Act & Regulations – this option would also put renewed emphasis on enforcement.
2. Option 2 – Amend existing Tourist Accommodations Act and Regulations – this option could include among other things a provision within the Act to require participation in a quality rating program as a mandatory condition of licensing.
3. Option 3 – Repeal the Tourist Accommodations Act & Regulations
4. Option 4 – Repeal the Tourist Accommodations Act & Regulations and through government policy establish certain conditions that must be met before operators of tourism accommodation properties are eligible to participate in government sponsored marketing activities. – one of the possible conditions includes participation in a quality rating program.

From the onset, there were serious flaws in the review process. First, there was poor, bordering on no methodology for capturing the opinions of a huge number of licensed accommodation operators. Only about one half of the licensed accommodation operators in the Province belong to one of the stakeholder organizations consulted in the study. The opinions of the other half were virtually disregarded. Second, the TAA and the Departmental licensing process is essentially a contract between the Department and individual tourist accommodation operators. It follows, therefore, that only individual accommodation operators or the organizations that represent specifically those operators should have been asked to contribute to the review. The opinions of the Regional Tourism Associations, the Tourism Partnership Council and Canada Select, none

of which are affected directly by the TAA, should have been neither sought nor considered. Canada Select, in particular, presented a clear conflict of interest. The opinions of these "non-accommodation" stakeholders seriously compromised the review. Changes to the Tourist Accommodations Act affect only accommodation operators. Only accommodation operators should have been considered major stakeholders in this process.

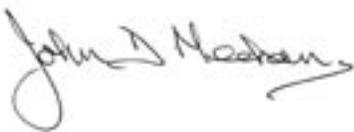
The Nova Scotia Bed and Breakfast Association represents roughly one half of the Bed and Breakfast properties throughout the Province with membership varying throughout the year between 140-180 individual property owners. The B&B owners that we represent are spread through every riding in the Province. In many areas, particularly in rural areas of the Province, they are the mainstay of the local Tourism Industry. Over the winter of 2006/2007, members of the NSBBA were canvassed for their opinions on this issue. Overwhelmingly, they indicated their preference to retain the current Act with the added caveat that the Department enforce the current regulations regarding unlicensed accommodations. It is of interest to note that NONE of the organizations representing individual accommodation operators even considered the option of repealing the TAA. This option was generally considered too preposterous to be seriously entertained. It was such a ridiculous option that no group took it seriously.

Despite the large number of accommodation properties that selected the option to retain and enforce the current Act, in late 2007 the Department announced their intent to repeal the TAA. To say that this decision caught the tourist accommodation industry by surprise would be an understatement. First and foremost, repealing the Act and eliminating any requirement for licensing will do absolutely nothing to address the problems associated with the current unlicensed properties issue. If anything, it will exacerbate it. It is somewhat analogous to combating speeding by eliminating all speeding limits. Would the speeding problem then go away? With no licensing regime, those individuals who are now running without a license will still continue to operate. Basically, the owners of unlicensed properties have been given an amnesty. With no requirement to obtain a license they can operate with impunity and market even more aggressively than before with no fear of retribution, they can continue to operate without having to pay the appropriate taxes that the rest of us are subject to, and they can continue to provide accommodation with absolutely no control over the quality of the services or experience that they offer.

Over the last two weeks NSBBA has again canvassed its membership to determine if they agreed with the Department's decision to repeal the Tourist Accommodations Act. The response was a categorical NO. The members of the Nova Scotia Bed & Breakfast Association believe firmly that the repeal of the Tourist Accommodations Act is not in the best interest of the Accommodations Industry in Nova Scotia and that it is not good for Tourism. They believe that the Act should NOT be repealed. They also believe that the Act, as it now exists, can and should be enforced.

We would request that your Government abandon any attempt to repeal the Tourist Accommodations Act. Repealing the Act is not in the interest of good governance and is clearly not in the best interest of the Tourism Industry in Nova Scotia. In a year where Nova Scotians are celebrating 250 years of democracy, let the wishes of the people prevail.

Sincerely,



John D Meehan
President,
Nova Scotia Bed & Breakfast Association

Information:

Minister of Tourism Culture and Heritage, the Honourable Bill Dooks
Ms. Susan Tilley Russell, Chair TIANS Board of Directors
Mr. Peter Sheehan, Chair IGNS
Ms. Alexis MacDonald, Chair COANS

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Tuesday, April 22, 2008

Honourable Rodney MacDonald (PC)
Premier, Office of the Premier
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Tourism, Culture and Heritage
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JUN 18 2008

Mr. Peter Sheehan, President
The Innkeepers Guild
PO Box 66
Tatamagouche, NS BOK 1VO

Dear Mr. Sheehan:

Thank you for your letter of April 24, 2008 regarding the proposed repeal of the Tourist Accommodations Act (TAA). I am responding on behalf of Premier Rodney MacDonald.

The Government's objective in repealing the Act is to create a more practical and streamlined regulatory environment, clearing the way for an industry-led approach to tourism accommodation in Nova Scotia. This new market-driven approach allows both customers and operators to determine which quality programs, if any, are relevant to their needs. Public safety will remain a priority, with clearer lines of responsibility reaffirmed in the hands of those departments with the specific mandates and authority for these regulations.

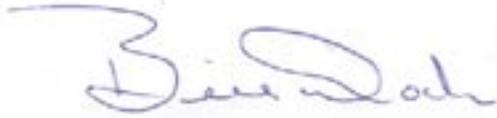
The tourism business environment is rapidly changing. With unprecedented global tourism competition and today's more discerning travellers, destinations are increasingly relying on quality programs to appeal to visitors. I understand that the existing Tourist Accommodations Act and Regulations may appear to provide a degree of insulation against consumers seeking unlicensed accommodations in the current marketplace. In reality, however, imposing an outdated system of regulation on businesses and visitors is unnecessary and inconsistent with our efforts to foster unique tourism products and an improved business climate. Indeed, in our research of other jurisdictions, we have not found a correlation between regulation and industry performance.

The Department's comprehensive review of the Tourist Accommodations Act and Regulations, which began in 2006, included consumer research, consultation, and a review of policy approaches and best practices in other jurisdictions. We engaged industry associations and accommodation stakeholders in the Province, and offered individual accommodation operators an opportunity to voice their opinion. We spoke with consumers who supported Government's role but limited it to public safety. Accommodation quality, on the other hand, was deemed not to require a regulatory approach. All of these comments were valued and considered, which led to Government's decision to repeal the Act and move to an industry-led approach to accommodation quality assurance.

The new approach aims at promoting only properties meeting industry standards for quality in provincial marketing activities such as the Doers' & Dreamers' Travel Guide and <http://www.novascotia.com>. These standards include existing nationally recognized programs such as Canada Select, CAA/AAA, and the new industry-led accommodation quality standards program being developed by TIANS. Operators may opt out of provincial marketing and industry quality programs as long as they, like all accommodation businesses, comply with government public safety requirements. In future government publications and services, we will ensure visitors recognize accommodation properties promoted by the Province have met industry's stamp of approval for quality.

Thank you for providing your comments on this important subject.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bill Dooks". The signature is fluid and cursive, with a large initial "B" and "D".

Bill Dooks
Minister

cc: Premier Rodney MacDonald
Honourable Karen Casey, MLA, Colchester North