



Tourist Accommodation Properties

Discussion Paper

January 2007

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I Introduction

Tourism is a vitally important industry to Nova Scotia's economic well-being. Tourism creates jobs, generates revenue and provides unique experiences that enhance the quality of life for Nova Scotians. Estimates indicate that, in 2005, tourism was worth \$1.29 billion to Nova Scotia's economy, supporting approximately 33,000 jobs and generating approximately \$100 million in provincial tax revenues. Much of that revenue (64%) is generated through "exports" spending from non-Nova Scotians visiting the province.

Under the *Tourist Accommodations Act & Regulations* no person shall operate a roofed accommodation property or campground establishment unless licensed to do so by the Province. All licenses expire on March 31st. On an annual basis, operators of roofed accommodation properties and campground establishments must renew their licenses and remit a licensing fee ranging from \$79.88 to \$852.00 for fixed roof accommodation properties and from \$79.88 to \$159.75 for campground establishments. Licensing fees vary based on the size of the operation. Currently, through a partnership with Service Nova Scotia and Municipal Relations, the Department of Tourism, Culture and Heritage licenses approximately 1,200 properties.

The majority of unlicensed properties are operated by individual small cottage owners who advertise on the internet or in local or national newspapers. Unlicensed property owners do not pay licensing fees and in some cases may not be registered under the Nova Scotia Registry of Joint Stocks. Some unlicensed properties may not meet minimum quality and safety standards required under the *Tourist Accommodations Act & Regulations*. In addition, unlicensed property owners do not submit monthly occupancy statistics to the Department of Tourism, Culture and Heritage.

On July 7, 2006, the Honourable Len Goucher, Minister of Tourism, Culture and Heritage committed to industry consultation and a review of the *Tourist Accommodations Act & Regulations*. In support of that commitment the Department of Tourism, Culture and Heritage is seeking your input on a variety of options presented later in this paper.

We encourage you to provide comments on the possible options outlined in this paper. We also welcome comments on options not presented here. For your convenience a copy of the *Tourism Accommodations Act & Regulations* is provided at the end of the document.

The Department will only accept written responses. Written responses can be sent by mail to:

**Maureen Reid, President
BoardWorks Consulting
951 Ivanhoe Street
Halifax, NS B3H 2X2**

Written responses can also be sent electronically to: maureen@boardworksconsulting.com

All responses should be sent no later than March 16, 2007.

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II BACKGROUND

The *Tourist Accommodations Act & Regulations* (the *Act*) is primarily consumer protection legislation. The *Act* requires that individuals acquire and maintain a license before operating certain tourist accommodation properties. The *Act* sets out minimum requirements that must be satisfied in order to acquire and maintain a license.

When reviewing the *Act* and when considering issues related to tourist accommodation properties, it is important to consider the following broad topics. This list focuses on the main issues and is not intended to be an exhaustive list of all issues, or, a formal legal interpretation of the *Act's* provisions:

Applicability

Under the *Act* individuals cannot operate a "roofed accommodation" or "camping establishment" without first acquiring a tourist accommodation license from the Minister of Tourism, Culture and Heritage. Licenses must be renewed on an annual basis.

- "roofed accommodation" means
 - (i) every building, part of a building, group of buildings or place of accommodation that provides one or more rental units used mainly for the reception of the travelling or vacationing public,
 - (ii) overnight cottages or cabins, or
 - (iii) any building or part of a building designated as a roofed accommodation in the regulations.
- "camping establishment" means any premises operated for profit or gain for the accommodation of the traveling or vacationing public comprising
 - (i) land maintained as grounds for camping or for overnight parking of recreational vehicles, or
 - (ii) a separate building or buildings containing a rental unit of one room used as an alternative form of accommodation in a campground as prescribed by the regulations.

Only individuals operating properties that meet these definitions are subject to the licensing requirements under the *Act*. The *Tourist Accommodations Act* does not apply to accommodations that are not mainly used for the reception of the travelling and vacationing public.

Visitor Safety / Protection

In order to acquire and maintain a tourist accommodation licence the following provisions must be satisfied:

- The *Act* specifically requires that a manager of a licensed accommodation provide a water supply sufficient in quantity to meet the requirements of the maximum number of persons that can be accommodated. A manager of a licensed property must also provide a water supply that meets the Provincial regulations for safe drinking water and submit annually the results of a water analysis to an accommodation officer for determining compliance. This requirement does not exist in other provincial legislation or regulation for small facilities.
- The *Act* specifically requires that the Minister of Tourism, Culture and Heritage or a designate be provided the construction plans of a licensed accommodation for approval prior to construction, renovation or reconstruction.
- The *Act* states that no person is permitted to operate a licensed accommodation unless the manager complies with the laws of Nova Scotia. Inspectors ask for copies of permits and certificates related to various other safety related Acts and Regulations (Fire Marshal Permits, Building Inspection Permits, Professional Sewage Treatment Certification etc.).
- A manager of a licensed roofed accommodation must ensure that all fixtures in a rental unit are cleaned and disinfected before a guest occupies it.
- The *Act* requires that the bathroom of a licensed roofed accommodation have a ground fault interrupter outlet.

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- The *Act* requires the manager of a licensed roofed accommodation keep stairways, halls and exits well lit and unobstructed and have auxiliary emergency lighting or provide flashlights.
- A manager of a licensed accommodation must have and conspicuously display an emergency evacuation plan.
- A manager of a licensed accommodation must have a cancellation policy and notify the guest of the policy at the time the reservation is taken.
- A manager must display the accommodation's license in a conspicuous place.
- A licensing system also provides an opportunity for enhanced enforcement of other safety related legislation. While inspecting for compliance under the *Tourist Accommodation Act and Regulations* inspectors report potential compliance issues and provide useful information to officials responsible for other safety related legislation.

Operator Protection & Services

- Under certain conditions managers of licensed roofed accommodations are entitled to a lien on the property of guests to satisfy arrears resulting from the provision of food or accommodation.
- Under certain conditions, a manager of a licensed roofed accommodation is not liable to make good to any guest of the manager any loss of or injury to goods or property brought to the managers accommodation except where the goods or property have been stolen, lost or injured through the wilful act, default or neglect of the manager or any staff in the employ of the manager; or where the goods or property have been deposited expressly for safe custody with the manager.
- Under certain conditions, a manager of a licensed roofed accommodation is not liable for the loss of a vehicle of a guest or of its contents except where the loss occurs where the vehicle is stored or parked in a garage of the accommodation or in a car park within the precincts of the accommodation or maintained elsewhere by the manager and where a fee is charged by the manager for the storage or parking or the manager or the staff of the manager accepts the vehicle for handling or safekeeping.
- Any person who uses a false name or makes a false statement, while registering for admission as a guest in a roofed accommodation is subject to a fine and/or imprisonment.
- By way of departmental policy only the operators of licensed tourist accommodation properties can utilize certain government sponsored marketing activities (ie. advertising in the *Doers & Dreamers* Guide, NovaScotia.com and participating in the Check-In Nova Scotia reservation system).

Quality of Visitor Experience

- The *Act* has several minimum standard provisions relating to the amenities provided in a licensed accommodation property. Many of these amenities contribute to comfort and quality of a visitor's stay (ie. bedding, lights, chairs, wastebaskets, alarm clocks, drinking utensils, mirrors, clothes hangers, towel hooks, luggage racks, minimum living area etc.).
- The *Act* also requires that a manager of a licensed property keep the grounds and buildings of the accommodation, safe, clean and well maintained. A manager must also keep the accommodation's furnishings, equipment and appliances repaired and in a clean and sanitary condition and free from rodents, vermin or other pests.

Occupancy Reports

- A manager of a licensed property must provide an occupancy report to the Department of Tourism, Culture and Heritage in a form prescribed by the Minister within seven days of the end of each calendar month during which the accommodation is operated. The information contained in Occupancy Reports is very important to both government and industry. It is used to gauge tourism activity and as an interim proxy indicator of success related to government and industry sponsored tourism marketing campaigns and programs.

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Business Registration & Taxation

- A legislated licencing system provides a means to ensure that licensed operations comply with business registration requirements. Service Nova Scotia and Municipal Relations checks to ensure all licensed properties are in compliance with the requirements to register under the Nova Scotia Registry of Joint Stock Companies.
- With the exception of approximately 500 bed and breakfast establishments, all roofed accommodations and campground establishments, who meet minimum earnings thresholds, are subject to commercial taxes. Under the *Assessment Act*, bed and breakfast establishments are assessed as residential property. A bed and breakfast establishment means a private home in which the owner resides and provides accommodation to the travelling or vacationing public of a maximum of four bedrooms and a common living room and serves breakfast of which the cost is included in the price of the accommodation. Residential tax is approximately half of commercial tax.

Indiscriminate Camping

- Some recreational vehicle users choose to park overnight in retail shopping mall parking lots or other parking areas. The owners of these premises do not charge a fee for such activity. These premises may not be subject to the licensing requirements of *the Act* given the definition of a camping establishment. Under *the Act* "camping establishment" means any premises operated for profit or gain for the accommodation of the travelling or vacationing public comprising:
 - (i) land maintained as grounds for camping or for overnight parking of recreational vehicles, or
 - (ii) a separate building or buildings containing a rental unit of one room used as an alternative form of accommodation in a campground as prescribed by the regulations.

It is the position of the Department of Tourism, Culture and Heritage that recreational vehicle owners are not committing an offence under the *Tourist Accommodations Act* by simply parking overnight in parking lots.

Enforcement

- Currently, Department of Tourism, Culture and Heritage staff inspect tourist accommodation properties for compliance with the *Act* to determine if a tourist accommodation license should be issued or renewed.
- Collection of licensing fees and the issuance and renewal of tourist accommodation licenses are administered through a partnership between the Department of Tourism, Culture and Heritage and Service Nova Scotia and Municipal Relations.
- The *Act* provides for fines upon summary conviction of up to \$500.00 for operating a camping establishment without a license. Other violations are subject to penalty of up to \$500.00. Second or subsequent offences are subject to a fine of not less than \$200.00 and not more than \$1,000.00.
- Upon conviction relating to a violation in respect of roofed accommodations, a judge may, in writing, order a chief of police or any constable to close, by means of seals, padlocks or otherwise, any roofed accommodation in which during the twelve months immediately preceding the making of the order, two other violations of this Act have been committed for which the same or any other person or persons were convicted.
- Department of Tourism, Culture and Heritage staff do not have the training, capacity or formal authority to lay a charge under the *Act*.

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- Historically Department of Tourism, Culture and Heritage staff have contacted, verbally and in writing, individuals who they believe to be operating in violation of the *Act*. In some cases, these individuals have applied for a license or have changed their practices to ensure compliance with the *Act*. In other cases, individuals have ignored requests for compliance. In the past, staff have also published in Tourism Insights the names of properties whose operators have not provided monthly occupancy reports to the Department.

- A case under the *Act* has never been prosecuted in the courts. Court action would require the involvement of law enforcement officials such as the police, prosecution services and the courts. Such action would require significant financial resources. In addition, the owners of some properties operating without a license reside outside of the Province or Country which significantly limits enforcement.

Other Jurisdictions

Jurisdiction	Tourist Accommodation Properties legislatively required to acquire and maintain a Government Issued License in order to operate	Tourist Accommodation Properties legislatively required to participate in a Quality Rating Program	Tourist Accommodation Properties required to participate in a Quality Rating Program in order to use Government Sponsored Marketing Services
British Columbia	No	No	No
Alberta	No	No	No
Saskatchewan	No	No	No
Manitoba	Yes	No	No
Ontario	No*	No	No
Quebec	Yes	Yes **	Yes
New Brunswick	Yes	Yes (Canada Select)	Yes
Nova Scotia	Yes	No	No
PEI	Yes	No	Yes
Newfoundland	Yes	Yes (Canada Select)	Yes

*Tourism establishments that make use of crown resources are required to apply for, and maintain, a license.

** La ministre du Tourisme du Quebec has created a classification system. Operators are required to display a Classification Certification issued by la Corporation de l'industrie touristique du Quebec.

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III Options

Four options are presented for discussion purposes only. We encourage you to provide comments on any of the options presented in this paper. We also welcome comments on options not presented here. In addition, a combination of options may also be desirable. For example options 2 and 4 may be combined by amending the existing *Tourist Accommodations Act & Regulations* and the department could establish certain conditions that must be satisfied in order to be eligible to participate in government sponsored marketing programs.

Option 1 Licensing & Regulation: Keep existing *Tourist Accommodations Act & Regulations*

Option 2 Licensing & Regulation: Amend existing *Tourist Accommodations Act & Regulations*

Under this option certain provisions in legislation related to tourist accommodation properties could be amended. For discussion purposes only, the following list provides examples of areas in which amendments may be beneficial. This list is not meant to be selective or exhaustive. Amendments to these areas may not be beneficial and amendments to other provisions may be beneficial.

Possible areas for amendment could include:

- Amend the definition of "roofed accommodation" under the *Tourist Accommodations Act & Regulations (the Act)* to more clearly define the types of tourist accommodation establishments that are subject to the requirements under *the Act*.
- Include a provision within the *Act* that requires participation in a quality rating program as a mandatory condition of licensing.

Should you provide comments on this option please clearly indicate the areas in which you believe amendments are necessary and be specific in how you believe those areas should be amended.

Option 3 Deregulation: Repeal the *Tourist Accommodations Act & Regulations*

Under this option individuals operating tourist accommodation properties would not be required to obtain a license to operate. All of the provisions under the *Tourist Accommodations Act & Regulations*, would no longer apply (including the requirement to provide occupancy statistics).

All other applicable Laws would still apply (ie. *Fire Safety Act, Environment Act, Building Code Act, Health Protection Act* etc.). It is important to note that while these other laws would still apply, the current licensing system provides an opportunity for enhanced enforcement of other health and safety related legislation. While inspecting for compliance under the *Tourist Accommodation Act and Regulations* inspectors report potential compliance issues and provide useful information to officials responsible for other health and safety related legislation. Any option respecting repealing of the *Act and Regulations* would be done in a manner to ensure health and safety gaps are not created.

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Option 4 **Deregulation:** 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

Under this option individuals operating tourist accommodation properties would not be required to obtain a license to operate. All of the provisions under the *Tourist Accommodations Act & Regulations*, would no longer apply. **All other applicable Laws would still apply (ie. *Fire Safety Act, Environment Act, Building Code Act, Health Protection Act* etc.).**

However, under this option operators of tourist accommodation properties would be required to meet certain conditions before being eligible to be included in the Doers and Dreamers Guide, NovaScotia.com website and the Check-In Nova Scotia reservation system.

For discussion purposes only, the following list provides examples of certain conditions that could be applied. This list is not meant to be selective or exhaustive. These conditions may not be beneficial and additional conditions not listed may be beneficial.

Possible conditions include:

- Participation in a quality rating program.
- Operators must provide the Department of Tourism, Culture & Heritage monthly occupancy statistics.
- Evidence that the operation is registered and in good standing with the Nova Scotia Registry of Joint Stock Companies.
- Evidence that the operator has satisfied the requirements for safe drinking water under the *Environment Act*.
- Evidence that the operator has satisfied the requirements under the *Fire Safety Act*.
- Evidence that the operator has satisfied the sewage requirements under the *Environment Act*.
- Evidence that the operator has satisfied the requirements under the *Building Code Act*.
- If food and liquor are provided, evidence that the operator has satisfied the requirements under the *Health Protection Act* and *Liquor Control Act*.
- Evidence that the property's website does not provide links to other properties that do not satisfy the established conditions.

Evidence of compliance could involve a requirement for operators to provide copies of various licenses, certificates and permits required under the applicable legislation or a requirement that operators provide written certification that they have complied with all applicable conditions and legislation.

Should you provide comments on this option please clearly explain the conditions that you believe should apply and how you believe evidence of compliance should be provided.

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IV Responses

Four options are presented for discussion purposes only. We encourage you to provide comments on any of the options presented in this paper. We also welcome comments on options not presented here. In addition, a combination of options may also be desirable. For example options 2 and 4 may be combined by amending the existing *Tourist Accommodations Act & Regulations* and the department could establish certain conditions that must be satisfied in order to be eligible to participate in government sponsored marketing programs.

The Department will only accept written responses. Written responses can be sent by mail to:

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Appendix

Tourist Accommodations Act & Regulations