

A COMMERCIAL INSURANCE REQUIREMENT IS GOOD FOR THE VR INDUSTRY

On October 22, 2015, Airbnb announced its Host Protection Insurance that provides one million dollars in commercial liability insurance to all US hosts and owners who book through the Airbnb site. The coverage applies during the booked period, and it's free of charge.

Nearly two years later, on May 8, 2017, HomeAway announced its one million dollar commercial liability insurance program for owners who book through the HomeAway sites. The coverage applies during the booked period, and it's also free of charge.

What exactly is going on here? My entire professional career is in the insurance industry, and as a salesman, I can only make a professional assumption. It's one part great marketing, and one part incredible industry intuition.

From a marketing standpoint, both Airbnb and HomeAway understand insurance is historically slow to adapt to new and emerging markets, and insurance is a barrier to entry for both because many large domestic insurance carriers do not insure short-term vacation rentals. So why not provide free liability insurance for everyone? It makes sense when revenue comes from bookings and both are competing for the same bookings.

The business industry taught me that nothing in life is free. Under closer examination, there does appear to be major gaps in coverage such as no property coverage, no personal and advertising injury, no assault and battery, no liquor, and much more. Only owners can decide whether to rely on the free liability insurance or to purchase a policy with their name on it. Being on the insurance side of this industry, we see the things most do not. Such events as the Gatlinburg, Tennessee, fires that burned more than one thousand vacation rentals last December, hail storms, theft, burglary, party destruction, or falls on the winter ice in the Sierras guarantee that you want insurance with your name on it.

As far as intuition, maybe Airbnb anticipated the regulation side of the industry and knew a commercial liability insurance requirement was inevitable. Granted, cities like Nashville that have a one million dollar insurance requirement do not accept the Host Protection as evidence of insurance for a permit. Perhaps Airbnb was onto something.

In 1946 the LaSalle Hotel in Chicago, the Canfield Hotel in Iowa, and the Baker Hotel in Dallas all caught fire within sixteen days and claimed the lives of ninety people. Those fires changed the national attitude about the government's authority to regulate public safety and, ultimately, set a precedent for the different hospitality laws we have today.

Hospitality Law is the body of law relating to the foodservice, travel, and lodging industries. That is, it is the body of law governing the specific nuances of hotels, restaurants, bars, spas, country clubs, meeting and convention planners, and more. Hospitality law does not involve only one area of law. It encompasses a wide variety of practice areas including contracts, antitrust, tort law, and more.

Our industry needs to understand that when an owner of a property allows someone to stay on a property for a short period in

exchange for money, the owner is subject to the hospitality laws. Vacation rentals are no different than hotels in that the hospitality laws include requirements to provide for privacy and for safe premises.

The Duty of a Hotel is to provide safe premises. This concept is based on the common law duty owed to business and social invitees of an establishment. Under common law, hotels must exercise reasonable care for the safety of their guests. Hotels owners may be found negligent if they knew, or should have known upon reasonable inspection, of the existence of a danger or hazard and failed to take action to correct it and/or warn guests about it.

*Accordingly, hotels have an affirmative duty to inspect and seek out hazards that may not be readily apparent, seen, or appreciated by patrons and guests. In addition, hotels may have an affirmative duty to warn guests of dangers or hazards. If the risk of harm or damage was foreseeable and the hotel failed to exercise reasonable care to either eliminate the risk or warn guests of its existence, the hotel may be liable for any resulting harm or damage caused by its negligence ("proximate cause").**

(*This duty is the reason Proper Insurance requires our insureds to display a "Swim at own risk sign" if they have a pool, to provide helmets if they offer bicycles, and to perform a post-stay inspection, and so on.)

One of the first regulations for hotels was commercial liability insurance and, in my opinion, it should be a requirement for vacation rentals as well. It is good for the city, good for the owners, good for the neighbors, and good for the industry.

Commercial liability is readily available to vacation rental owners and is reasonably priced. Not only does it cover the owner, but it extends coverage to property managers as well.

When owners purchase commercial liability they will go through underwriting of the property as every insurance carrier has different requirements and standards for purchase. Some of these underwriting requirements may include wiring inspections for older properties, fire extinguishers in kitchens, and depth markers for swimming pools. By its very nature, insurance underwriting will suffice for much of the hospitality laws.

A commercial liability requirement also gives the vacation rental industry political capital when arguing against bans and other unrealistic regulations. As the industry continues to mature, proper insurance simply makes sense.

Darren Pettyjohn is the Cofounder of Proper Insurance®, which offers custom-penned, all-inclusive insurance designed for vacation rental owners.

References:

<https://www.homeaway.com/lp/liability-insurance>
<https://www.airbnb.com/host-protection-insurance>

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