

June 16, 2020

Mayor Harry Hughes  
Deputy Mayor Ralph Hough  
Councillor Ian Veitch  
Councillor Tammy DeSousa  
Councillor Cathy Keane  
Councillor Shawn Scott  
Councillor Randy Greenlaw  
Chief Administrative Officer Robin Dunn

Township of Oro-Medonte,  
148 Line 7 South,  
Oro-Medonte, ON.  
LOL 2E0

Dear Mayor, Deputy Mayor, Councillors and Chief Administrative Officer:

RE: Short-term Rentals in the Township of Oro-Medonte

This letter is being submitted by the following Township residents' associations concerning the proposed amendment to Section 6.0 of the Township's Zoning By-law 97-95 which was released on June 4, 2020 (the "Amendment"):

Horseshoe Valley Property Owners Association;  
Bass Lake Oro-Medonte Ratepayers Association;  
Shanty Bay Residents' Association;  
Oro-Station Ratepayers' Association;  
Barrillia Park Ratepayers' Association;  
Parkside Ratepayers' Association;  
Hawkestone Ratepayers' Association;  
Eight Mile Point Cottagers' Association;  
Maplewood Ratepayers' Association;  
Moon Point Ratepayers' Association;  
AWARE Oro-Medonte;  
West Oro Ratepayers' Association.

We strongly support the Amendment which confirms and clarifies that the existing Zoning By-law 97-95 prohibits all types of commercial accommodations in dwelling units including short term rentals of dwellings in residential zones in the Township. We thank Township Council and Staff for the work that has been done in reviewing the short-term rental issue and deciding to bring forward this Amendment. The Amendment demonstrates that Township Council and Staff have recognized the significant concerns

voiced by residents concerning short-term rentals and paves the way for enforcement action as called for by the Township-wide petition signed by over 1500 Township residents. We appreciate the Township's recognition of the seriousness of the situation and strongly support the enactment of the Amendment in the form as proposed at the earliest opportunity.

The problems caused by short-term rentals that have disrupted residential neighbourhoods have gone on for far too long. These problems are well known and are described in detail in the Joint Residents' Submission first submitted to the Township in April 2020 and last updated on May 11, 2020. Although we have just passed through a relatively calm period, short-term rentals are now poised to resume and inflict even more damage on ordinary residents as the Province's emergency order prohibiting the operation of short term rentals during the COVID-19 emergency has now been lifted. Therefore, we believe that enacting the Amendment is the right and timely step to take.

We do want to reiterate that short-term rentals are already illegal in residential zones under the Township's existing Zoning By-law. This is explained in detail in the Joint Residents' Submission referred to above. This is also the conclusion reached by the retired planner Gord Knox in his opinions previously provided to the Township. In addition, a legal opinion has been provided by Donnelly Law that also reaches the conclusion that short term rentals are illegal in residential zones under the Township's existing Zoning By-law. In short, residential areas are designed and intended to be non-commercial areas where people reside. Commercial areas are designed and intended as locations for business where commerce is practiced. Zoning by-laws separate uses of land into classes and subclasses and prevent one type of use from infiltrating another.

We recognize that, as recently communicated by the Mayor, the Township felt it prudent to obtain advice from its legal counsel Aird & Berlis, a leading authority on municipal law and short-term rental matters, in order to ensure that the Township was in the best possible position to move forward with successful enforcement actions to stop disruptive short-term rentals. We understand that this Amendment which clarifies the term "commercial accommodation" reflects this advice and is the way forward for the Township to proceed with enforcement. We are therefore strongly supportive of the Amendment and look forward to effective enforcement action being taken as expeditiously as possible.

Given the history of this matter and the fact that short-term rental properties have been operating in violation of the Township's existing Zoning By-law for some time, it is likely that some operators of short-term rental properties will try to convince Council and Staff to make changes to the Amendment so as to permit or allow an exception in the Amendment for some level of casual or occasional short-term rental. We are strongly opposed to and would not support any changes to the wording of the Amendment that would have the effect of creating any exceptions to the proposed definition of "commercial accommodation" as it is written in the Amendment.

Please do not waver from the proposed wording of the Amendment by creating any exceptions. Allowing any exceptions would completely undermine its purpose and intent and would prejudice the success of future enforcement action. Should any change be made to create exceptions, it is a virtual certainty that the disruption caused by commercial short-term rental operators will continue as they will in all

likelihood attempt to disguise themselves in order to claim that they fall within any permitted casual short-term rental exception. We believe that your expert legal counsel would agree and will advise you that moving forward with effective enforcement would become difficult, more expensive and could ultimately fail if such a change is made as it would be necessary to establish that the casual or occasional short-term rental exception has been violated, a fact that may prove difficult or impossible to establish in the face of tactics adopted by disruptive commercial operators. We are confident that your counsel will agree.

As the Mayor has recently communicated to residents, resolving the short-term rental issue is extremely important to maintaining the quality of life in Oro-Medonte. An inability of the Township to be in a position to effectively enforce the Zoning By-law to stop disruptive short-term rentals because of an exception for casual rentals would be a complete failure for the Township, Council and its residents.

As was described in the Joint Residents Submission referred to above, the traditional casual cottage rental has not typically presented a problem in the Township. A bona fide cottage owner engaging in occasional rentals does not generally present a problem as they themselves use the cottage primarily as their own residence and respect their neighbours and the community. This does not however make it necessary or advisable to make any changes to the Amendment. As we have described in our previous submission, it has been clearly established by a decision of the Supreme Court of Canada (*Polai v. City of Toronto*), that a municipality has the discretion to decide in good faith which violations of a zoning by-law it will prosecute and that the municipality will not be prevented from obtaining a remedy merely because others have not been prosecuted for similar violations.

The Township is therefore entitled to proceed with enforcement action in order to shut down only those short-term rentals that are disrupting residential neighbourhoods. It will not be a defence by a disruptive short-term rental operator that the Township has not pursued all violations; the Township may fairly exercise its discretion to take action only against violators that are operating disruptive rental properties. No action is called for or need be taken against traditional cottage rentals which are not having any negative effects on the neighbouring properties or the community. Changes to the Amendment to create exceptions are therefore not needed and will only limit the Township's ability to shut down those short-term rentals that are disruptive.

By passing the Amendment as proposed the Township will be able to bring efficient and successful enforcement actions to stop the disruptive short-term rentals operating in residential zones. Given how widespread this problem has become, it is essential that the Township have available to it the most robust enforcement tools and by-law provisions possible. The Amendment as proposed will do that. Changes which create exceptions will only diminish and prejudice the Township's ability to enforce the Zoning By-law. We therefore strongly support the enactment of the Amendment in the form in which it has been proposed and strongly oppose any substantive changes that would create exceptions.

The disruptive behaviour that has been growing dramatically in the past few years must not be allowed to continue. Our people, our neighbourhoods, our communities and the peaceful and quiet use and

enjoyment of our homes must be protected. It is essential that Council proceed with the enactment of the Amendment in the form proposed.

Yours truly,