

August 30, 2020

Robin Dunn  
Chief Administrative Officer

Andria Leigh  
Director, Development Services

Curtis Shelswell  
Chief Municipal Law Enforcement Officer

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

Dear Mr. Dunn, Ms. Leigh & Mr. Shelswell:

RE: Re: Short Term Rentals – Zoning Enforcement

The Residents' Associations are writing concerning Oro-Medonte Zoning By-law 97-95 as it relates to short-term rentals of dwelling units operating in residential zones in the Township.

This letter is being submitted by the following Residents' Associations:

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 believe that it is incumbent upon the Township and its Administration to proceed with immediate zoning enforcement action in order to shut down short-term rentals of dwelling units which are causing disruptions to residents in residential zones in the Township of Oro-Medonte.

We do not believe that the recent appeal to the Local Planning Appeal Tribunal with respect to By-law No. 2020-073 (the "Amendment") can in any way justify a delay by the Township in proceeding with zoning enforcement action to shut down these short-term rentals.

The appeal of the Amendment does not in any way affect the provisions of Zoning By-law 97-95 which were in place prior to the enactment of the Amendment and remain in full force and effect (the "existing Zoning By-law"). Short-term rental use of a dwelling unit in any Residential zone (R1, R2, RUR1, RUR2, SR, RLS) is not permitted under the existing Zoning By-law. This conclusion has been confirmed in the following opinions and reports:

- Planning opinion submitted by Gord Knox, dated November 18, 2019 and updated January 14, 2020, April 6, 2020 and August 20, 2020;
- Legal opinion of Donnelly Law, dated April 27, 2020;
- Oro-Medonte Report DS2020-069 dated July 15, 2020 prepared by the Township's Director of Development Services.

The Knox and Donnelly opinions have been previously provided to the Township. We believe that Report DS2020-069 reflects legal advice provided by the Township's municipal law counsel, Aird & Berlis.

Significantly, Report DS2020-069 includes the following conclusions concerning the provisions of the existing Zoning By-law, at page 7:

*"Section 3.0 of the Township's Zoning By-law explains that the only uses permitted in each zone are those that are specified in the by-law. None of permitted uses in the Township's Residential Zones contained in Zoning By-law 97-95 would permit commercial accommodations."*

*".....various LPAT/OMB cases [have] validated the recognition that short term rentals are a form of commercial accommodation where temporary accommodation is provided in exchange for payment. Based on this, this form of short term use would not be permitted under the existing definition of dwelling unit."*

It is clearly evident from Report DS2020-069 that the Township is in agreement with the conclusion that short-term rental use of a dwelling unit in a Residential zone is not permitted under the existing Zoning By-law.

The Residents' Associations were, and continue to be, fully supportive of the Amendment as it confirms that the existing Zoning By-law prohibits all types of commercial accommodations in dwelling units including short-term rentals in Residential zones in the Township. While we agree that the Amendment is helpful in clarifying the existing Zoning By law, it is not necessary in order for enforcement of the existing Zoning By-law to be successful. The clarification of commercial accommodation places an upper limit of 28 days on the duration of a commercial accommodation. This upper limit is not, however, relevant with respect to those short-term rentals that are causing disruptions since those rentals of dwelling units are for much shorter periods of time.

Moreover, it is also clearly evident that the existing Zoning By-law permits a short-term rental use of a dwelling only in the mixed-use Village One zone. This is another basis upon which enforcement of the existing Zoning By-law in a Residential zone would succeed.

The appeal of the Amendment to LPAT is therefore no reason or justification to delay enforcement of the existing Zoning By-law in order to shut down those short-term rentals that are causing disruptions in Residential zones.

Short-term rentals with disruptive occupants create a fundamental and serious public health and safety risk to adjacent neighbours and neighbourhoods. Despite the numerous and repeated incidents and problems reported to the Township and local police authorities, no action has been taken to shut down those short-term rentals that are disrupting Residential areas.

Since 2017 problems reported to the Township associated with disruptive short-term rentals include: verbal abuse of neighbours; public intoxication; raucous parties including stags and stagettes; dangerous operation of watercraft; shouting, profanity and loud music at all hours day and night; unattended outdoor fires; trespass, theft and vandalism to neighbouring property; unlawful use of fireworks; the list goes on.

This severity of the public health and safety risk from short-term rentals with disruptive occupants was most recently underscored by the Township's Chief Municipal Law Enforcement Officer (MLEO) in Oro-Medonte Report DS2020-083 dated August 12, 2020. In that report, the problems encountered by Township enforcement officers when attending at a short-term rental with disruptive occupants were accurately described as presenting a risk to their personal safety. In fact, the risk is so severe that the Chief MLEO has recommended to Council that Township municipal law enforcement officers no longer attend after-hours to the scene of complaints in residential neighbourhoods. This is understandable; Township municipal law enforcement officers are not equipped or trained to deal with the dangerous and unsafe scenarios that can arise in these situations.

Obviously, affected neighbours in proximity to short-term rentals with disruptive occupants have a similar or greater concern for their safety. Neighbours are in fact exposed to the behaviour of disruptive occupants for extended if not continuous periods of time, not confined to a relatively short duration as when an enforcement officer attends on the scene. This serious health and safety risk to neighbouring residents is completely unacceptable as it is for municipal law enforcement officers. Zoning enforcement with respect to those short term rentals that are creating disruptions is therefore needed on an urgent basis in order to prevent these situations from arising in the first place.

Further confirmation that zoning enforcement is the only means available in order to prevent this safety risk was brought forward at the Township Council meeting on August 12, 2020. At the meeting, Council received a report from Inspector Robitaille, Detachment Commander, Orillia, of the Ontario Provincial Police. He advised Council that the OPP is not a position to address Township by-law violations and that this is the responsibility of Township by-law enforcement officers. Inspector Robitaille also reported that Criminal Code charges against short-term rental occupants for their unacceptable behaviour are not feasible in view of the fact that the activity is perpetrated by a different group of individuals on each call to the property and that instead, if they attend on scene, an educational approach is employed.

The severe limitations of the approach by the OPP and Township MLE are obvious. It is not only costly, but it is also ineffective as it leaves neighbouring residents unprotected and vulnerable. Further, by not addressing the root cause of the problem, which is the inherent conflict between commercial and residential land-uses, the cycle of unacceptable behaviour by disruptive short-term rental occupants continues and repeats itself with the arrival of each new group of occupants. Without significant and meaningful consequences to either the occupants or the operators of the disruptive short-term rental, the disruption problems continue unabated. Again, this perpetuates the serious health and safety risks to neighbouring residents, and is completely unacceptable.

Immediate zoning enforcement action is therefore needed in order to protect residents from any further risk to their personal health and safety by shutting down those short-term rentals that are disrupting Residential neighbourhoods.

Injunctive relief under section 440 of the Municipal Act to permanently restrain the operation of short-term rentals which are disrupting Residential neighbourhoods must therefore be sought without delay. Actions, similar to those taken by the City of Burlington earlier this year to protect residents in that municipality from a disruptive short-term rental operating in a residential neighbourhood, are needed in Oro-Medonte as soon as possible.

Enforcement proceedings involving only charges for a violation of the existing Zoning By-law resulting in fines will not be sufficient. Proceeding in this manner would result only in monetary penalties which would be absorbed by the operator as a cost of doing business. Instead, proceedings to obtain a permanent injunction under Section 440 of the Municipal Act are needed to ensure that the illegal operation of a disruptive short-term rental is shut down permanently. From a timing perspective, it is essential that these proceedings are commenced as soon as possible so that injunctive relief is available by the spring of 2021 and prior to next summer.

We trust that you agree that it is completely unacceptable for Township residents to continue to be victimized and placed at risk while the appeal of the Amendment proceeds. The serious public health and safety risks caused by short-term rentals that are disrupting Residential neighbourhoods have been well known to the Township since at least 2017 and are only continuing to grow. Had the Township acted to vigorously enforce the existing Zoning By-law at the outset, the problems now being experienced would have been avoided. Given the pressing need to protect Residential neighbourhood safety and security, time is critical; this zoning enforcement action is required without delay. Delay will only benefit those operating short term rentals.

As we have previously noted, the Township is entitled to proceed with enforcement action in order to shut down only those short-term rentals which are disrupting Residential neighbourhoods. There is no requirement or need for zoning enforcement action to be taken against a bona fide cottage owner engaging in occasional rentals whose occupants are not creating any disruptions.

We recognize that work necessary in order to implement this zoning enforcement action will require assistance from residents. We want to assure you that we are ready to provide the information and assistance that will be needed by the Township to move forward with this zoning enforcement action.

We believe that effectively addressing the short-term rental issue is extremely important to protecting the safety and the security of our Residential neighbourhoods and maintaining the high quality of life in Oro-Medonte. **A**

failure to act expeditiously to prevent further risk to the personal health and safety of residents of the Township would have serious implications for residents and the Township alike.

We therefore request your confirmation that the appeal of the Amendment will not cause a delay in the enforcement by the Township of the existing Zoning By-law through proceedings under section 440 of the Municipal Act. Your response is requested at your earliest convenience, but no later than September 14, 2020.

The Residents' Associations look forward to your cooperation and support for this very pressing and important issue that affects all of us.

Yours truly,