

November 18, 2019

Name Deleted  
Address Deleted,  
Oro-Medonte, ON  
LXX YYY

Dear XXX,

You asked me to provide an opinion in regard to Short Term Rentals (STR's) in Oro-Medonte that will eventually be provided to Mayor and Council. I have written this opinion letter with the understanding that the reader will be your Township Council.

For your information, I am a retired Urban Planner, who worked mainly within Simcoe County for just under forty years and was the Planner of Record for over a dozen Municipalities writing many of their initial Official Plans and Zoning By-laws and have appeared as an expert witness before the OMB on over 200 occasions.

My initial review of the Townships Official Plan and Zoning By-law, particularly the Zoning By-law and the provision that commercial uses were specifically prohibited in single detached dwellings, brought me quickly to the opinion that STR's were, by their nature commercial, and therefore, not permitted uses and therefore illegal.

My review of the Blue Mountains OMB (2011) decision and the decision of the Superior Court of Justice (Menzie's case) heard by Mr. Justice Beaudoin (2016) further solidified my opinion that STR's were commercial uses and should not be permitted in single detached residential zones. In my opinion both matters were well considered and provided a clear understanding as to what these uses constituted. Again, both cases outlined that STR's are commercial land uses and for other noted reasons should not be expected or permitted in single detached dwelling areas.

In reviewing the two planning reports provided to Council concerning this matter, I was struck initially by the fact that staff had failed to offer Council with one additional option. That is that STR's are illegal land uses in single detached residentially zoned areas and unless it could be proven that these business activities had existed prior to 1997 and beyond, then the Township could and should enforce its by-laws and shut these uses down.

I think we can all agree that if someone wanted to convert their residential use in a residentially zoned area to a shoe store, restaurant or manufacturing facility, the Township response would be swift in stopping these types of activities. Since the decisions cited above concluded that STR's presented a motel-like land use for short term transient users i.e. a motel, i.e. a commercial use, why would the Township ignore this when it wouldn't ignore the others for a moment?

I understand that STR's have appeared unannounced across the Province and beyond and have to a degree caught many Municipalities by surprise. However a number of Municipalities such as the Town of The Blue Mountains, Wasaga Beach, and others have specifically prohibited STR's in single detached residential areas, and as far as I know have not recognized, as legal non-conforming, any uses that may have started up illegally. Unless the Zoning By-law is amended, an illegal use remains an illegal use.

In my opinion, STR's in Oro-Medonte are illegal. In the future, should the Township not take action to shut down these uses, it is reasonable to predict that the ratepayers may take the Township to Court and ask that the Township be directed to enforce its by-laws to eliminate STR's.

In the alternative, the Township could amend the zoning by-law to allow STR's and in the process notify every land owner in an R1 or SR zones. However it would seem inevitable that this move would be challenged resulting in a Tribunal hearing. Given past OMB and Court decisions I would think that the Township would have a very steep hill to climb. I should also suggest that to decide to license these uses, under current circumstances, would not make them legal but probably would put the Township in a very awkward spot if investments were made and in the end STR's are declared illegal.

In regard to the Interim Control Bylaw (ICB), it is difficult to understand what has apparently happened and the position taken by the Township. It only makes sense if the Township mistakenly decided STR's were legal, which in my opinion they are not. It would seem to me that the only way to legalize an STR would be by way of a Section 34 (Zoning By-law) amendment. As Section 38 (ICB) was only intended to create a pause, intended to stop a building permit for an unwanted use, to preserve the intent of an Official Plan designation; it cannot be believed that this section can in any way legalize an illegal use or somehow "grandfather" the illegal use.

I very much appreciate that Council may not have been provided with all the information related to STR's and I also understand that this may be a difficult issue to tackle. At the end of the day, however, it seems to me that Council has a duty to protect its citizens. From what I have learned, STR's can be extremely disruptive and costly to neighbours.

The final test for each member of Council is how would you feel if having purchased your home with the belief and knowledge that you were in a safe and quiet place only to have an uncontrolled STR pop up next to you, unannounced and be turned into the party house from hell? If you are anything like me, I know you wouldn't like it nor would you put up with it. Can you imagine thinking that there is really nothing you can do about it, but it has been suggested that licensing will somehow control it, which given the experience of others I can't believe. How would you feel because this is all about good land use planning, which in essence is about respecting and protecting your neighbour?

I trust that my opinion will be helpful to Council in dealing with this matter

Yours Truly,