

	SHORT TERM ACCOMMODATION LICENSING BY-LAW Interpretation Policy		Planning & Building Department Building & By-Law Services Division 32 Mill Street Thornbury, ON N0H 2P0 Tel.: (519) 599-3131, ext. 240 Toll Free: 1-888-258-6867 Fax: (519) 599-7723 STALicences@thebluemountains.ca
Subject Title:	STA Licence Applications: Confirming Legal Non-Conforming Status		
Date Issued:	June 3, 2014	Policy No.:	POL.STAL.14.01
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Policy Statement

This STA Licensing By-law Interpretation Policy applies to all existing premises that are being rented for short term accommodation purposes (STA) and where protection under s. 34(9) of the *Planning Act* is being declared by the applicant to license a STA premises under the STA Licensing By-law 2013-50, s amended.

Purpose

To clarify the requirements for accepting evidence by the Manager or Municipal Licensing Officer that the use of a STA premises is protected by virtue of s. 34(9) of the *Planning Act* and so as to provide consistent interpretation by Staff and to clarify requirements of same to members of the public with respect to STA licence applications.

STA Licensing By-law Definitions & Related Requirements

- Section 34(9) *Planning Act* states the following:

Excepted lands and buildings

(9) No by-law passed under this section applies,

- to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose; or
- to prevent the erection or use for a purpose prohibited by the by-law of any building or structure for which a permit has been issued under subsection 8 (1) of the *Building Code Act, 1992*, prior to the day of the passing of the by-law, so long as the building or structure when erected is used and continues to be used for the purpose for which it was erected and provided the permit has not been revoked under subsection 8 (10) of that Act. R.S.O. 1990, c. P.13, s. 34 (9); 2009, c. 33, Sched. 21, s. 10 (1).

- Interim Control By-law No. 2008-12 was enacted by Council on February 4, 2008 that had an effect of prohibiting the use of land, buildings or structures for the purpose of an STA. An STA use that existed on this date.

Interpretation

With respect to the evaluation of the information provided with the STA Licence Application, the Manager/MLO will validate the information/evidence provided prior to acceptance and the following interpretation shall be uniformly applied:

1. It is the responsibility of the STA owner to demonstrate to the Town that a use, building or structure is protected by virtue of Section 34(9) of the Planning Act. Town staff will not provide legal advice with respect to a legal non-conforming status without a STA licence application.
2. Where an applicant for a short term accommodation (STA) licence is declaring legal non-conforming protection under s. 34(9) of the *Planning Act* (“grandfathered”); the applicant will be required to submit evidence so that the Manager can confirm:
 - i. That the property was being used as a STA on February 3, 2008;
 - ii. The nature and extent of the STA use on February 3, 2008 so as to determine if the use has changed or intensified since this date; and
 - iii. That the property has not at any time since Feb. 3, 2008 stopped being used as a STA
3. Interim Control By-law No. 2008-12 was enacted by Council on Feb. 4, 2008 prohibiting STA uses; thus the specific dates mentioned above. To assist in the confirmation of the above criteria, s. 4.5 of the STA Licensing By-law indicates that such evidence be provided by the applicant including , but not limited to, the following:
 - Rental information including receipts and advertisements and other records that may be relevant and that are supportive of the establishment and continued use of the premise for short term accommodation purpose and that the use continued without it being discontinued;
 - Advertisements;
 - Any other records that may be relative and supportive of the establishment and continued use of the STA; AND
 - A **Sworn Affidavit**.
4. A Sworn Affidavit must be provided by the applicant that the STA licence application confirming the continued use of the premise for STA purposes from Feb. 3, 2008 to the present.
5. **All supporting documentation and evidence as described above are to be attached as Exhibits to the Affidavit.**

References and Related Policies

1. STA Licensing By-law 2013-50, as amended.
2. *Ontario Planning Act*, as amended.

Review Cycle

This policy will be reviewed annually by the Manager, Building & By-Law/Chief Building Official.

TOWN OF THE BLUE MOUNTAINS

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