

Good Morning Members of Council,

Below is the information that shall be the basis or foundation for an upcoming Deputation.

I shall be requesting some Deputation time, with Council, on the subject of the Responsible Person position as it is written into the STA Licensing Bylaw and correspondingly how it is working in the field. The primary purpose of the Deputation shall be to explain to you the actual touch points where RP mechanism is yielding position results and where it is not as a direct result of that fact that it is simply not being utilized. It is my position and that of the STA Industry, as a whole, is that where it is not being employed or utilized and not being allowed to work is a shortcoming of the current system and, is in fact, a contravention of the Bylaw requirements. It for this reason alone that I am seeking Deputation time to present the facts to Council.

The solution is at Council's fingertips and the Deputation shall support that assertion.

It is most important that I advise you that The Bylaw is working and working well, with the sole exception of the RP position on a certain touch point only. The TBM'S staff, specifically Greg Miller's team, have done an absolutely outstanding job implementing the Bylaw and correspondingly enforcing it. The RP position is being used by The Town on several fronts on a consistent basis and is therefore being allowed to function well on issues such as garbage and parking however on the matter of the finite # of noise issues, it is not functioning at all and there is no truly valid reason or impediment as to why not. **The gap is that there is no structure or plan in place to allow the RP mechanism to function and correspondingly be assessed as it relates specifically to the matter of noise.**

Let's start by reviewing The Responsible Person Position within the enacted STA Licensing Bylaw.

I do wish to first table the info below prior to providing the bullet points:

Point One (below and attached)

As you will note Leo Longo presented a workshop to Council on Oct. 28, 2013. The by-law is clear with respect to the definition of the Responsible Person, the requirement of the RP to attend within one hour and that the contact information shall be posted to the Town website:

5.13 The owner of a short term accommodation premise shall ensure that there is a responsible person available to attend to the short term accommodation premises at all times within a period of no greater than one hour from the time of contact by way of telephone or e-mail (By-law 2014-45).

4.29 Applications for licence and issued licences, along with the legal description and/or emergency number and associated owner, agent, applicant and responsible person contact information will be posted to the Town's website.

Point Two

Here are some FACTS, as supported by some excerpts or bullet points, from within the STA Licensing Bylaw:

1. Definition-Responsible Person

Responsible Person means the person assigned by the owner or operator of a short term accommodation premises to ensure the premises are operated in accordance with the provisions of this By-law, the licence and the relevant provisions of the Fire Code;

2. A requirement under the heading of administration:

4.0 ADMINISTRATION

4.3 *Every application for a new licence or a renewal or extension of an existing licence shall include:*

3. The Responsible Person contact coordinates are required to be provided to The Town

(6) the name, address, telephone number and e-mail address of a person who has been assigned by the owner or operator to be the responsible person for the operation and conduct of the inhabitants of the licenced short term accommodation premises;

5.12 *Each licence shall include the following:*

- (1) Building/site/location address/identifier (i.e. Emergency or 911 Number);*
- (2) Licence number;*
- (3) Effective date and expiry date of the licence;*
- (4) Owner's name and contact information;*
- (5) Rental agent or agency's name and contact information;*
- (6) Responsible person's name and contact information; and,*

4. Role and Timing Requirement of the Responsible Person

5.13 The owner of a short term accommodation premise shall ensure that there is a responsible person available to attend to the short term accommodation premises at all times within a period of no greater than one hour from the time of contact by way of telephone or e-mail

In closing I simply wish to seek from Council or individual Councillors an answer to the following questions.

- 1. If after reading the information presented within this email what conclusion do you come to? If I, and others who were present during the Bylaw pre-enactment meetings, are incorrect in terms of our understanding.....what then do you feel is the specific intent is of having a legally defined title and role within the STA Licensing Bylaw for someone who is the Responsible Person ?**
- 2. What is the purpose of having both the intent and presented phraseology of the Responsible Person evident throughout the Bylaw?**
- 3. If the role of the RP is not as it is written in and as discussed during the drafting of the Bylaw then what do you see that role as being versus what I am explaining it to be?**
- 4. Why would the Bylaw clearly state and provide for a one hour window if time to respond to and solve any problem at the property on behalf of the owner?**

Point Three

The Issue of Due Process

I am referring specifically to the due process as it must be afforded to owners and rental managers under the STA Licensing Bylaw. Having sat through a couple of STA Committee Hearings it occurred to me that, by the Town not affording one due process it only, in reality, creates an actual direct impediment to one's ability to consistently demonstrate responsibility. **Never forget that the whole reason for the existence of the STA Licensing Bylaw was for the Municipality to have a legislative tool by which to best manage STA activity within residential neighbourhood's so as to lessen possible situations of incompatibility.** The STA Licensing Bylaw was held up as the benchmark or bible during the STA Committee Hearings. It was used as a benchmark by which the Town's action were justified. On a couple of occasions the STA Committee specifically asked Mr. Dewitt if he/The Town had followed its responsibilities under the terms of the STA Licensing Bylaw itself. His very clear answer in every case reviewed was "Yes".

Simply put..... the STA Bylaw is the principal guiding document on the Town's actions on enforcement..

It seems to me, and others, that this is where a serious problem or gap exists within the current practices and processes being followed as it relates to The Town and residents seeking of high levels of responsibility in terms of STA operations. There is a ever-widening gap that exists as it relates to owner or rental managers due process as it relates specifically to the subject of responsibility under the terms of the enacted STA Licensing Bylaw.

The gap I refer too is that the Bylaw was clearly written to provide a mechanism to Owner/Operators and Rental Management firms to be able to address any problem whatsoever, primarily any noise issues, if and when they do arise. That mechanism is clearly defined and described throughout the Bylaw itself. The failure by any individual or party to follow all the terms and requirements of the STA Licensing Bylaw, including Town Staff, is a clear failure to provide and afford due process to the Owner/operator and/or Rental Manager. The STA Committee, Town Staff and residents alike are demanding accountability and responsibility from STA Owners/operators and Rental Managers. Yet , under the current practices, that opportunity to be responsible and take quick and efficient action to solve any noise issue whatsoever, when and if an issue or incident arises at an STA, is not properly being provided. **Currently when a rare noise issue arises no contact is being with the Responsible Person.**

If The Town is stating that following the letter of the law or the Bylaw is the over-arching policy then why is no actual opportunity being provided the legally required RP to be responsible, yet simultaneously, full responsibility is being demanded. Any sophisticated STA Operator currently has an apparatus in place to be able to respond to any issue that arise and keep in mind that is on top of all the efforts made up front to educate and counsel the renter on the required behaviour. It is however the case that no formal system exists today to utilize the mechanism that is written right into the STA Licensing Bylaw whereby if and when a situation arises the Responsible Person is contacted and afforded the prescribed one hour to resolve the issue. That is what the Bylaw requires and that has been proven to be the guiding principal for the enforcement actions as a whole, yet issues of noise are being handled outside of those same guiding principals.

That is how the Bylaw was drafted and enacted yet to this day that practice is not in force on matters relating to Noise.

For those that are confused or perhaps unclear as to the absolute intent of the Response Person position and intended function within the Bylaw and even those who actually believe that this position does not exist within the Bylaw allow me to provide some bullet points.

I wish to mention the fact that at the June 21st STA Committee Hearing there were two notable quotes that spoke to what should be the stakeholder wide mindset.....

I did write down two notable quotes at the Hearing that I found extremely interesting. The quotes were as follows:

- 1. Joe Halos stated "I hope that the program moves on and the RP would be contacted as opposed to the O.P.P. in order that they may fix the problem within the one hour period" This is not perhaps the direct word for word quote but this is what he said and this is what would be in the minutes.*
- 2. Luc Proulx stated that "the RP attended which is all within the guidelines to call the RP".*

The above statements capture perfectly what our understanding of the RP role or function is both from the pre-enactment and post enactment standpoint.

In closing.....

There exists a legal responsibility to be a responsible operator and that is taken extremely seriously by Owners/Operators and Rental Managers. We have invested thousands of dollars in ensuring a pro-active system exists to mitigate the chances of a problem. Yet, despite all that, the reality is that some situations could potentially slip through the cracks. It is then that we would expect that the terms of the enacted STA Licensing Bylaw would be followed by The Town and that the Responsible Person would be contacted in order that they may address and solve the problem within the legally prescribed one hour period.

There are solutions to this problem that are presently on the table, yet to this very day, the issue is not moving forward on the matter of a few issues relating to Noise. It is literally the last piece of the puzzle. It is evidently clear that if the RP was, in fact, contacted on any occasion where Noise is a concern or a perceived concern that immediate action would be taken to resolve that issue within minutes. This is evidenced by the RP responses on all other STA issues, which there are only a few, and TBM staff have records that show that my claim is true and factual.

The most important benefit or outcome that any complainant gets is that their concern is addressed most efficiently. It is an important point that the owners and/or the R.P. would have acted promptly to resolve the problems without the higher cost of any O.P.P or physical Bylaw Staff response or even the involvement of the high cost of an STA Committee Hearing not to mention the cost of having Town legal Counsel present for several hours at those STA Hearings. The solutions that are on the table presently absolutely include a requirement for record-keeping of all of the facts and response actions relating to any complaint received, from any source, so any issue therefore is a matter of record and would be kept with that property's STA file with The Town.

I am asking this matter be seriously reviewed and that ALL stakeholders are held to a high level of account under the terms of the enacted STA, both Licensees and Town Staff. If due process and responsibility are the benchmarks of Town Staff, Town Council, The STA Committee and residents alike then it seems to be more that fair and reasonable that our request is granted and that the STA Licensing Bylaw be adhered to. The RP must be contacted when and if an issue arises (24/7) at an STA. Let's save the STA Committee for those owner/operators and Rental Managers who fail to respond within the one hour period or breach the Fire Code requirements. Those are the real problems and that is where fines and penalties need to be directed versus against those who have all the mechanisms in place to be responsible yet are not afforded the due process so as to be able to act responsibly.

The current approach is snaring both the good and the bad operators which is the furthest thing from fair and equitable and any reasonable thinking person would have to agree that this is not the intent of the STA Licensing Bylaw.

....a simple phone call to the Responsible Person from Bylaw department or their 3rd party designate (Huronian) would solve this issue. The last action taken on this matter by way of a viable solution was within Greg Miller's staff report last Fall. I am not aware that Council ever did review, formally discuss and vote on Greg Miller's recommendations? I am not clear as to why not? The STA Industry supports a 3rd part solution (Huronian for example). The system works very well within Clearview so the logic is that it would work just as well if not better within The TBM's.

Should you have any questions or comments on this matter I am available to discuss at any time and I shall also be seeking a Deputation time on the subject matter.

I do thank you for your time and consideration on this important matter. I shall be contacting Corinna today to see the Deputation date and time.

Best Regards,

Stu Frith
President
VisitBlueMountain.com and STABlue
Blue Mountains, ON.