

STAFF REPORT: PLANNING & BUILDING SERVICES

REPORT TO: Council
MEETING DATE: November 9, 2009
REPORT NO.: SRB.09.29
SUBJECT: Short Term Accommodation
PREPARED BY: David Finbow, Director, Planning & Building Services

A. Recommendations

THAT Council receive Staff Report SRB.09.29 "Short Term Accommodation".

B. Background

The purpose of this report is to provide Council with an update with respect to the appeals of the Town's enactment of an Interim Control By-law (ICBL) and Official Plan and Zoning By-law Amendments (OPA and ZBLA) related to short term accommodation uses (STA's) and to advise Council as to current actions/activities of the Building & By-law Division related to enforcement of STA related matters.

Status of Short Term Accommodation By-law Appeals

The Town's enactment of the ICBL, OPA and ZBLA were appealed to the OMB in 2008 by various parties. Prehearing Conferences were held on July 3, 2008, September 12, 2008, July 28, 2009 and September 21, 2009.

With respect to the September 21, 2009 teleconference Prehearing, the Board directed each Counsel/Agent to confer with their respective client about mediating the appeals and to inquire about a mandate for doing so. On October 16, 2009, OMB Vice Chair James R. McKenzie held a teleconference Mediation Assessment with the Town and subsequently held similar Mediation Assessments with the other parties. Vice Chair McKenzie's disposition on the Mediation Assessments has not been released at the time of writing. Upon the issuance of his disposition, same will be circulated to Council and interested stakeholders.

It is noted that OMB Decisions related to matters before the Board are available at www.omb.gov.on.ca (E-Status Case Information, filed under "T" – The Blue Mountains).

By-law Enforcement & Short Term Accommodation Uses

It is apparent that our residents continue to be concerned with what some deem to be "inaction" on the Town's part. In this regard, I note that the Town has been actively attempting to address the issues associated with Short Term Accommodation (STA) for some time. Actions include:

- enhancing the community's policing in 2002 by way of having policing in The Blue Mountains provided by way of an integrated arrangement with the Collingwood Detachment of the OPP (with it being noted that the 2009 Policing Contract was \$2.1 million and the projected 2010 Policing Contract is \$2.3 million representing approximately 13% of the Town's Operating Budget);

- obtaining approval from the senior Regional Justice for a \$500.00 set fine associated with contraventions of the Town's Noise By-law;
- enhancing our By-law Enforcement presence by increasing our staffing compliment from 0.25 Officers in 2004 to 2 Officers in 2006;
- enacting an Interim Control By-law in January 2007 to prohibit the establishment of further STA's;
- developing and adopting STA policies for the Town's Official Plan;
- developing and enacting Zoning By-law regulations with respect to STA's;
- developing licencing provisions to regulate and control existing STA's with same to be brought back to Council for consideration upon the STA Appeals being finalized; and,
- liaising with STA operators with respect to implementing controls over renters.

In early 2008, post the enactment of the ICBL, By-law Enforcement determined to dedicate one Officer full time to the matter of STA's. The principal work associated with this was to identify STA's that pre-dated the ICBL, ensure that identified STA's were operating in compliance with current municipal by-laws, to act as a liaison with the OPP as it relates to OPP issues, and to assist the OPP when needed.

Notwithstanding the actions taken to-date, there continues to be questions raised and concerns expressed by our residents (principally related to public disturbance). Questions, and the related responses, that have been asked for many years include:

Q1. How do we get to the owners of these problem properties? The noise by-law contains a clause that owners "not permit noise to be made". Why can't we charge the owners as well as the renters?

A1. The Noise By-law was enacted pursuant to the provisions of the Municipal Act. The Municipal Act enables a municipality to enact a by-law so as to regulate and prohibit noise. The Act is clear that the by-law must provide that a person who contravenes a by-law is guilty of the offence. Therefore, the municipality does not have the authority to charge the owner of the premises unless they are responsible for the specific offence.

Q2. How can so many people use a septic system without causing a health concern?

A2. New on-site sewage systems, including the tank and field/bed, are sized based on the number of bedrooms and/or floor area of the dwelling. The majority of the dwellings that are serviced by on-site sewage systems were constructed prior to the current requirements. Notwithstanding this, the Town's Building & By-law is aware of only one instance in the past 9 years where a complaint was filed with the Grey Bruce Health Unit related to a breakout and it is noted that the dwelling was not used for STA purposes. Based on our knowledge, this issue is not a concern.

- Q3. How can people who are obviously intoxicated be walking the streets, drinking and destroying public and private property without consequences?
- A3. The OPP has recently provided the following data for the period May 15 – September 15, 2009 related to various policing matters for the Craigeith Zone:

	2008	2009	Charges 2008	Charges 2009
Assault	8	6	4	4
B & E	6	1	1	
Theft	19	18		2 + 2CDLC
Disturb Peace	5	7	2 + 2 CDLC	2 CDLC
Impaired	5	9	5	9
LLA	64	38	57	32
Mischief	26	11	3+1 CDLC	1 CDLC
Noise	71	69	1	6
Total incidents	502	402		

CDLC = Complainant declines to lay charge

As Council will note, the OPP received 5 and 7 complaints respectively in 2008 and 2009 related to Disturbing the Peace. These complaints resulted in 2 charges with the other 4 instances, the complainant declined to lay a charge.

With respect to Noise Complaints, a total of 71 and 69 complaints were received for the Craigeith Zone in 2008 and 2009 respectively (approximately 4 per week). It is noted that for the same time period, there were 15 complaints received by the OPP for the Thornbury Zone and 122 for the Town of Collingwood Zone. As to the entire Town for the period January 1 to October 31, a total of 191 complaints were received with 83 originating in the Craigeith Zone (43.5%).

In 2008, the Craigeith Zone accounted for 41% of all OPP calls whereas in 2009 it's 35%

- Q4. How do we solve the issue of excess garbage generated from these properties?
- A4. Bag limits are in place with By-law Enforcement prepared to enforce the By-law, including laying littering charges, when notified of violations. In addition, in response to complaints, By-law Enforcement has attended to garbage that has been left out on the wrong pick-up date and provided written notices of violation to property owners. In some instances, By-law Enforcement has been involved in litter pick-up resulting from garbage that has been disturbed by wildlife.
- Q5. How can we contact the by-law officers in real time to allow them to really help?
- A5. In no circumstance is By-law Enforcement to be contacted to address public disturbances or noise issues related to parties. Furthermore, residents are advised not to attempt to address these matters on their own. The primary response to public drinking, public nuisance, disturbance, noise, etc. must be the OPP.
- Q6. How can we deal with the problems and stay safe and not feel threatened by violence or litigation?
- A6. We encourage residents to contact the OPP @ 1.800.310.1122.

- Q7. How can places such as those within residential areas continue to rent for short term purposes and many other start renting after the enactment of the Town's Interim Control By-law and not be told to cease operation?
- Q7. If a use pre-dates the passing of the ICBL, they are protected by virtue of Section 34(9) of the Planning Act ("legal non-conforming"). If a use was commenced post the enactment of the ICBL, February 4, 2008, please advise By-law Enforcement.

Notwithstanding the work completed to-date, or that work that is underway, the real issue is:

How can we utilize existing laws and by-laws more effectively to bring some relief for those residents that are most affected by these issues?

The response provided by Staff to this question in 2001 was to focus on and address the most common identified problem - public disturbance/noise. This is being addressed currently by the OPP and, as we move forward with our licencing initiatives, will be addressed directly with owners of STA's.

Ontario Provincial Police & Short Term Accommodation Uses

Traditionally, The Blue Mountains Police Services Board has requested that the Detachment Commander attend Town Council meetings to provide annual updates on policing matters. In this regard, Inspector John Trude, Detachment Commander, and Sergeant Charlie Watts will be in attendance at Council's November 9, 2009 meeting. In addition to providing an update, the Detachment Commander and Sergeant will be available to answer questions from Council related to the OPP's involvement in Short Term Accommodation matters.

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."

D. Budget Impact (cc: Treasury if required)

N/A

E. Addendums

N/A

Respectfully submitted,

David Finbow
Director, Planning & Building Services