



Staff Report

To: Council

From: George Vadeboncoeur, Manager, Planning Special Projects

Meeting Date: October 16, 2024

Report No.: DS2024-124

Subject: Council Education Session Pertaining to Enforcement Challenges in Addressing Short-Term Rental Commercial Accommodations in the Municipality

Type: For Information Only

Motion No.:

Recommendation

It is recommended:

1. That Information Report No. DS2024-124 be received for information.

Introduction

The purpose of this information report is to provide some context for the Council education session pertaining to enforcement challenges in addressing short-term rental commercial accommodations in the municipality. It builds on Information Report [DS2024-093](#) received by Council at its meeting on September 11, 2024.

Short-term rentals (STRs) can be broadly described as dwelling units offered for rent via electronic platforms for the purpose of commercial gain and profit for periods as short as a day, but more typically for three (3) days and typically no longer than a month.

It has been the Township's position that STRs are only permitted in certain zone categories. The Township's Zoning By-law No. 97-95 permits STRs in Village Resort Commercial within the Village (V1) and Residential Two, exception 123 (RS-123) Zones. They are not permitted in most residential zones.

A time-share is another form of STR. These types of uses are only permitted in the following areas:

- Horseshoe Resort Condos
- The Carriage Hills and Carriage Ridge developments.

Bed and Breakfast uses are another form of STRs and are only permitted as of right in the Agriculture/Rural Zone (A/RU) or Private Recreation (PR) Zone under the Zoning By-law. They are only permitted elsewhere by exception approved through a Zoning Amendment.

Under the Zoning By-law a Dwelling Unit is defined as:

“Dwelling Unit [By-law 2015-192]

Means one or more rooms in a building, designed as, or intended as, or capable of being used or occupied as a single independent housekeeping unit and containing living, sleeping, sanitary and food preparation facilities or facilities for the installation of kitchen equipment and has an independent entrance. For the purposes of this By-law, a dwelling unit does not include any commercial accommodation or a recreational trailer.” (Emphasis added)

Generally, under the Zoning By-law, unless a use is specifically listed as being permitted, it is not permitted. The only way it could be permitted is through a Zoning By-law Amendment or minor variance.

The municipality introduced a definition of *Commercial Accommodation* through a Zoning By-law Amendment, which was appealed to the Ontario Land Tribunal (OLT). The decision of the OLT was to repeal the By-law amendment. The municipality appealed the OLT decision to the Divisional Court and in March 2024, the Court issued its decision agreeing with the OLT decision, which removed the amended definition of *Commercial Accommodation*. See Information Report [DS2024-093](#) for details.

Take Aways from OLT and Divisional Court Decisions

The Court recognized that the current Zoning By-law already prohibits commercial accommodation in dwelling units but stated it must be something “other than simply renting a dwelling unit for money”.

The Court went on to suggest that the term “commercial accommodation” in the current definition of dwelling unit, “... *could mean that temporary accommodation provided as part of an ongoing commercial enterprise akin to a hotel, motel, resort or bed and breakfast are prohibited as commercial accommodations.*”

Municipal Law Enforcement Actions

Municipal Law Enforcement has been attempting to enforce the Zoning By-law and gain compliance since it started receiving complaints associated with STRs in 2017.

Municipal Law Enforcement Officers have also enforced Municipal By-laws related to noise, garbage and parking through routine follow-up and investigation.

In the fall of 2023, Municipal Law initiated a Municipal Act Section 440 charge against an owner that failed to cease their STR operation. Staff also initiated two charges under the Zoning By-law through the Provincial Offences Act (POA).

In early 2024 as staff were preparing to proceed to Court to have the POA charges adjudicated, the Township's prosecutor, being an independent officer of the Court, determined that the evidence gathered to support the Section 440 charge and the two POA charges against operators of STRs was not sufficient to obtain a conviction and withdrew the charges. It was determined that the evidence provided was insufficient to secure convictions.

Based on the Divisional Court decision, proceeding with further prosecutions of STR operators under the current Zoning By-law is not ideal unless sufficient evidence can be obtained that crosses the threshold of the dwelling being used for commercial accommodation.

Council Education Session

Staff have invited two professionals to share their experiences in dealing with STRs.

Paul Dray is an experienced paralegal and prosecutor that has provided prosecution services for 35 municipalities, including several in Simcoe County, along with various government agencies. He also prepares by-laws for review by municipalities. Earlier in his career he worked as Manager of Prosecutions for the City of Brampton for 16 years. He will share his experiences and insights on the challenges of prosecuting STR owners.

Paul DeMelo is a lawyer and co-partner with the firm Kagan Shastri DeMelo Winer Park and a former Legal Counsel with a large municipality. His practice focuses on all aspects of municipal and land use planning law. He represents both public and private sector clients. He will be speaking on his experiences with the City of Niagara Falls.

Financial/Legal Implications/Risk Management

Council will be considering an Options Report at a future Council meeting. Depending on the direction provided to staff, there may be legal and/or consulting costs associated with implementing the preferred option.

Policies/Legislation

- Municipal Act
- Planning Act
- Provincial Offences Act
- Township of Oro-Medonte Zoning By-law

Consultations

- Chief Administrative Officer
- Director, Development Services
- Manager, Planning Services
- Chief Municipal Law Enforcement Officer

Conclusion

The OLT and Divisional Court in recent decisions pertaining to the repeal of a Oro-Medonte's proposed Zoning Amendment to define Commercial Accommodation indicated that the short-term rental of a dwelling unit must reach the threshold of commercial accommodation before it can be determined it is in violation of the Zoning By-law.

The purpose of the Council Education Session is to provide members of Council with information on the challenges of prosecuting STRs using a Zoning By-law. Arrangements have been made for an experienced Prosecutor and Solicitor to attend the meeting to share their experiences while representing Ontario municipalities in dealing with STRs. Due to the interest in this matter the session is open to the public.

In the coming weeks staff will bring forward a report outlining options for Council to arrive at a strategy to improve the regulations and enforcement of short-term rentals in Oro-Medonte.

Respectfully submitted;

George Vadeboncoeur, RPP,
Manager, Planning Special Projects

Oct.. 9, 2024

Approvals:

Brent Spagnol, Director, Development Services
Shawn Binns, CAO

Date:

October 9, 2024
October 10, 2024