

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. CAO-2018-0003

**FOR THE CONSIDERATION OF
COUNCIL**

February 7, 2018

SUBJECT: SHORT TERM RENTAL ACCOMMODATIONS

1. RECOMMENDATIONS:

- 1. That Council receive Report No. CAO-2018-0003 prepared by the Office of the CAO dated February 7, 2018 respecting Short Term Rental Accommodations;**
- 2. That staff continue with the development of a proposed policy framework to regulate Short Term Rental Accommodations in the Town of Georgina;**
- 3. That staff work with Town legal counsel and insurers to effect amendments to permits issued for dockage at Town owned docks at Jackson's Point Harbour to prohibit Short Term Rental of permitted boats.**

2. PURPOSE:

The purpose of this report is to report back to Council on the matter of Short Term Rental Accommodations (STRAs) and to receive direction on the continued development of a Town program to regulate such.

3. BACKGROUND:

On September 6, 2017 Council received delegations and speakers on the topic of STRAs and the impacts on the surrounding community. Staff were subsequently directed to begin researching enforcement options. Staff meetings and research into this complex issue took place over the fall of 2017.

4. ANALYSIS:

Staff and Town legal counsel recommendations are outlined in Attachment 1. In summary, the recommendation is the development of a policy framework seeking to regulate STRAs that involves zoning provisions accompanied by a licensing scheme.

It is further recommended that the process to develop the Town program mirror the process followed in the recent development of the Town's Private Storage of Leisure Vehicles on Residential Lots program. Due to the complexity of the STRA issue and the urgency of the need as communicated by the community, staff recommend third party assistance be retained to coordinate the program development.

Assuming today's report to be the 1st report in a series of reports, next steps would be as follows:

- More extensive analysis to be undertaken and a 2nd report prepared to outline and recommend possible zoning strategies and licensing options
- Assuming direction from Council is to proceed, a Public Information Meeting (PIM) would be held to solicit public input on the proposed options
- A 3rd report would be submitted to Council outlining comments received from Public Information Meeting, outlining the preferred options based upon all public and Town department comments received to date, and seeking Council approval to proceed with the formal process under the Planning Act to consider a proposed Zoning By-law Amendment (draft Amending By-law would be attached to this report)
- Staff schedule and provide notices for a Statutory Public Meeting (within a regularly scheduled Council Meeting, or within a Special Council meeting), to consider the proposed Zoning By-law Amendment
- Not sooner than 20 days after notice is given, the public meeting is held
- At the Statutory Public Meeting Council receive the staff/consultant report and direct staff to proceed with the preparation of the Amending By-law in its final form for adoption at a future public meeting
- Staff return to Council with (1) a report recommending approval of the By-law, and (2) the final Amending Zoning By-law for adoption
- Clerk gives notice of By-law Passing within 15 days of any Council decision
- 20 day OMB appeal period from notice of Council's passing of any By-law
- Paralleling the planning process, the development of the licensing scheme continues

Finally, staff have been advised of rentals of boats assigned to the Jackson's Point Harbour rented slips. The ability to regulate this use can be accomplished via the existing permitting process and staff will work with legal counsel and the Town's insurers to develop the appropriate language to control this activity.

5. RELATIONSHIP TO CORPORATE STRATEGIC PLAN:

This report addresses the following strategic goals:

Goal 2: "Promote a High Quality of Life" – HEALTHY, SAFE, SUSTAINABLE COMMUNITIES

Goal 4: "Provide Exceptional Municipal Services" – ORGANIZATIONAL & OPERATIONAL EXCELLENCE

6. FINANCIAL AND BUDGETARY IMPACT:

There are no financial impacts associated with this report. Should Council direct that staff proceed with the initiative there would be financial impacts associated with retaining third party assistance.

7. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

There are no public consultation or notice requirements associated with this report. Should Council direct that staff proceed with the initiative public consultation would be incorporated into the program development.

8. CONCLUSION:

Given the impacts on the community surrounding STRAs, staff recommend that regulatory program development be undertaken.

Prepared and Recommended by:



Winanne Grant, B.A., AMCT, CEMC
Chief Administrative Officer

Attachment 1 – Correspondence from Ritchie Ketcheson Hart and Biggart dated January 28, 2018

Ritchie Ketcheson
Hart &
Biggart

Ritchie Ketcheson Hart & Biggart LLP
Barristers, Solicitors, Notaries
1 Eva Road, Suite 206
Toronto, Ontario
M9C 4Z5
Tel: (416) 622-6601
Fax: (416) 622-4713
e-mail: mail@ritchieketcheson.com

January 28, 2018

R. Andrew Biggart
Tel: (416) 622-6601 Ext. 227
abiggart@ritchieketcheson.com

Winanne Grant
Chief Administrative Officer
Town of Georgina
26557 Civic Centre Road, R.R. #2
Keswick, ON L4P 3G1

Dear Ms. Grant:

RE: Short-Term Rental Accommodations – Town of Georgina

You have asked that I provide you with a report to identify issues that have or that are likely to arise regarding Short-term Rental Accommodation (“STRA”) of residences and to propose a method by which Council may wish to address issues arising from STRAs in Georgina.

To be clear, when referring to STRAs I am referring to the relatively new concept of persons renting single family residential dwellings, or rooms within such a dwelling, through websites such as “Airbnb”, “VRBO” and “HomeAway”.

What is a STRA

A STRA should be understood to mean any dwelling or part of a dwelling offered for overnight accommodation, for a set period of time and for a fee, to a person or persons who do not usually reside in the dwelling. Therefore, physically, a STRA can be, for example, a single-family home, a bedroom within such a home, a basement within such a home, a townhouse or part of a townhouse, a condominium unit or part of a condominium unit.

A STRA is also, unlike a hotel or motel, a structure or part of a structure which was not planned or constructed, for the most part, to be utilized as a short-term rental property. A STRA, for the most part, was planned and constructed to be utilized as the primary residence of a resident of Georgina.

When dwellings or parts of dwellings are utilized for purposes for which they were not planned or constructed, issues can arise regarding the safety of occupants in the dwelling and regarding impacts upon neighbours and the community.

I should also note that it has come to my attention that some boat owners are renting their boats as short-term rental accommodations while moored at Town owned slips. This may be of

concern to other boaters and the Town. However, any issues related to the rental of boats for short-term rental accommodation is best addressed in a separate report because the Town's ability to regulate the rental of boats is different from its ability to regulate traditional dwellings.

Effects of STRAs

It is my understanding that residents of Georgina have approached members of Council and contacted Town staff to express concerns with the establishment and use of STRAs within Georgina. It is also my understanding that the existence of STRAs has caused concerns to be raised regarding issues such as the following:

- Community safety (strangers coming and going at various hours);
- Parking issues on streets, etc.;
- Noise complaints;
- Littering and garbage;
- Septic issues;
- Potential impact on property values near a STRA;
- Impact upon purpose built rental accommodations (e.g. motels, hotels, etc.)

The above list is not meant to be an exhaustive list of all issues that can or have arisen regarding the operation of STRAs in Georgina.

While there are certainly some negative impacts that can arise from the operations of STRAs in Georgina, there are other potential benefits that should be recognized and considered. Some of those benefits are:

- Ability of ratepayers to profit from renting their property;
- Greater likelihood of ratepayers being able to pay property taxes;
- Encouraging tourism within Georgina resulting in benefits to local businesses.

The above list is also not meant to be an exhaustive list of the benefits that STRAs may bring to Georgina and its residents.

Impact Upon the Town

When problems arise from the operation of a STRA it is usually the Town that is contacted. Whether the issue is excessive noise, parking issues or concerns about a business operating in a residentially zoned community, residents look to the Town and its staff to 'fix' the problem.

Without some form of regulation and control over STRAs the Town is left with the usual enforcement mechanisms that are available to it to address problems. For example, when there are cars parked illegally on a street, the Town can issue a ticket. When there is a noise complaint, the Town can issue a ticket. However, it would be best, in my opinion, to regulate the

location and operation of STRAs in order to avoid having problems arise. If STRAs are operated properly, with limits upon the number of renters and limits upon the numbers of days per year in which the STRA may operate, there is less likelihood of conflicts arising between residents, operators of STRAs and renters.

Options Available to the Town

(a) Take No Steps

At present, STRAs are not regulated in Georgina because they are neither permitted nor prohibited. Given this, Georgina has the option of taking no steps to address STRAs and can simply proceed with addressing issues that may arise at specific properties if and when they arise. This would result in the Town, for example, issuing tickets, as described above, if problems arise at a particular site.

In my opinion, it would be best for the Town not to approach the issue of STRAs only in a reactive manner. It would be best, in my opinion, for the Town to be proactive and regulate the operation of STRAs in an attempt to avoid or minimize problems arising in the first place. I also note that, should an issue arise at a STRA that results in litigation, the Town will be in a better position to defend itself if it can demonstrate that it took reasonable steps to regulate the location and operation of STRAs, rather than simply reacting to problems as they arose.

(b) Amend the Town's Zoning By-law to Regulate STRAs

The Town has the authority, pursuant to section 34 of the *Planning Act*, to prohibit the use of land for any purpose other than that identified in a Zoning By-law as passed by Council. Therefore, Council has the authority, in my opinion, to pass a Zoning By-law that prohibits the rental of any dwelling or part of a dwelling to any person or persons for any period of time except in accordance with the requirements of the By-law. Of course, any Zoning By-law passed by Council should be drafted so as not to prohibit 'long-term rentals' [e.g. traditional rentals of a year or more] of dwelling units. The By-law would have to be drafted to address what Council would identify as "Short-term rentals" in the by-law.

If Council decides to proceed with considering the passage of a By-law to regulate STRAs, it is my recommendation that Council direct staff to prepare a draft By-law for public consideration which addresses, among other matters, the following:

- a. Define 'short-term rental' and 'short-term rental accommodation';
- b. Whether short-term rental should have a minimum stay period to stop 'one night' or 'hourly' stays;
- c. Whether short-term rental will be permitted in part of a dwelling;
- d. Whether short-term rental must occur only in the Landlord's principal residence or whether it may occur in any dwelling or part of a dwelling;
- e. Whether there are types of dwellings at which short-term rentals should be prohibited;

- f. Whether short-term rentals should be limited to a certain number of days/nights per year or per month;
- g. Whether short-term rentals should be limited to a certain number of people per dwelling or per room.

The above list is meant to capture some of the fundamental issues that would have to be addressed in a By-law in order to properly regulate STRAs, should Council determine that it is appropriate to consider this option. For example, a fundamental issue to determine is whether it is appropriate to permit an entire 'house' to be rented or whether it is appropriate to allow only a portion (possibly only a room) to be rented. Further, it should be determined whether it is appropriate to allow STRAs to be available in an apartment or condominium where there are shared facilities with other residents in the building. Another issue to determine is whether dwellings, in order to be used as a STRA, must be the principal residence of the 'landlord' or whether the Town will permit landlords to rent dwellings or rooms in buildings at which they do not live. Finally, it will be important to address whether the use of STRA should be limited in terms of the number of days or nights during which it can be used for rental purposes and the number of persons that can rent it at any one time.

(c) License STRAs

Georgina, pursuant to section 151 of the *Municipal Act*, has the authority to License the operation of any STRA operating with the Town. There are several benefits to requiring operators of STRAs to obtain a License to operate a STRA. The benefits are as follows:

- a. The Town will know where all legal STRAs are located and this information can be made available to Emergency Services;
- b. The Town can require the Landlord to provide the following to ensure renters are safe while in the unit:
 - i. Fire Inspection Approval;
 - ii. Electrical Safety Certificate from Electrical Safety Authority;
 - iii. Zoning Compliance Approval;
 - iv. Criminal background check of Landlord;
 - v. Proof of Ownership of the dwelling;
 - vi. Proof of Insurance.

It should be noted that Licensing Fees, if any, can only be based upon the cost of administering and enforcing the Licensing By-law. A Licensing fee cannot be utilized as a 'profit centre' for the Town.

An additional benefit of establishing a Licensing By-law is to allow the Town, if necessary, to suspend, revoke or to refuse to renew the License of an operator who has violated the Zoning By-law, who has consistently allowed the dwelling to be a source of a nuisance to others in the community, or who no longer qualifies to operate a STRA (e.g. is convicted of a crime prior to the renewal of the License).

Ritchie Ketcheson
Hart &
Biggart

Of course, the obvious draw-back of passing a Licensing By-law is the fact that the Town will have to establish, administer and enforce the Licensing By-law. It should also be noted that the Town may be subject to negligence claims if the Town negligently administers its Licensing programme. Further, there is the possibility that Landlords of STRAs will complain of having to deal with 'red-tape' arising from the licensing requirements and that the Licensing requirement will discourage some potential Landlords from operating a STRA.

Notwithstanding the draw-backs of establishing a Licensing programme for STRAs, it is my opinion that it would be in the best interest of the Town to pass a Licensing By-law to control the operation of STRAs if Town Council determines that it is appropriate to regulate their operation. The combination of a Zoning By-law, to establish where (among other matters) STRAs can and cannot locate, together with a Licensing By-law to regulate the operation of STRAs will, in my opinion, reduce the likelihood of conflicts arising from the operation of STRAs and will increase the likelihood that the renters of STRAs and residents living near STRAs will be provided with a safe environment.

Conclusion

Given the above, it is my recommendation that Council direct staff to hold a public meeting to have staff receive input regarding the matters that should be addressed in a Zoning By-law and a Licensing By-law to regulate STRAs.

After having received input, staff should prepare a draft Zoning By-law to regulate STRAs pursuant to the *Planning Act* and a Licensing By-law to regulate the operation of STRAs pursuant to the *Municipal Act* for Council's consideration.

I would be pleased to answer any questions that you may have regarding this report.

Yours truly,

**RITCHIE KETCHESON
HART & BIGGART LLP**



R. Andrew Biggart