

SENT AS EMAIL ATTACHMENT FROM [kwesthue@uwaterloo.ca] TO [aherlovitch@niagarafalls.ca], with copies to Mayor Diodati and Members of Council, also to Alfred DSouza and John Pinter

5419 River Road
Niagara Falls, Ontario L2E 3H1

1 May 2017

Mr. Alex Herlovitch
Director of Planning, Building, & Development
City of Niagara Falls, Ontario

Dear Mr. Herlovitch:

This letter is to report and register a formal complaint about an egregious violation of our city's Zoning By-law 79-200, and of related municipal and provincial land-use regulations. Please confirm your receipt of this letter and forward it to whichever city staff have responsibility to investigate the violation reported here and see to its prompt correction.

We address this letter to you because you had major involvement in Council's passage of Official Plan Amendment 116 and By-law 2015-51, which allows John Pinter's property at 5359 River Road to be used as an inn with a maximum of 12 guest rooms. We have read online your letter of 5 June 2015 in this regard to Jennifer Vida of Upper Canada Consultants.

We supported Mr. Pinter's application for that amendment and spoke in favour of it at a meeting at City Hall. It was our view that Mr. Pinter's plan to renovate and enlarge the building would not do significant further damage to the residential character of this neighbourhood, beyond the 8 guest rooms that had been approved since 2001. We admired, moreover, Mr. Pinter's respect for our city's history, his plan to retain the building's original architecture in the additions to be made, and his pledge to maintain high standards in his operation of the inn.

Our complaint does not concern the property at 5359 River Road, except in so far as Mr. Pinter has illegally broadened what Council approved in 2015, applying it to an additional dwelling he has gained control of, namely the house at 5411 River Road, adjacent to of our own home.

Background

The property at 5411 River Road, like ours and almost all others in this neighbourhood, is zoned R2, residential. It was owner-occupied when we bought our own home in 2010. Since late 2012, it has been occupied by tenants, legally so far as we know, and our relations with them have been cordial. So have our relations with the owners, Alfred and Collette DSouza, who live in Markham.

Mr. DSouza informed us six weeks ago, on 15 March, when we were still at our condo in Florida, that "we have leased our house to Mr. John Pinter who runs the B&B on River Road and we

believe he knows Ken. Mr. Pinter has assured us that he will maintain our property and its surroundings well and will keep our neighbours happy.”

What we have found since our return from Florida is that Mr. Pinter is using this property in a way that is contrary to law, as an extension of his inn, now called Grandview Manor, at 5359 River Road. Please find as an appendix to this letter screenshots of his advertisement on the Grandview Manor website of the house at 5411 River Road. He has named it “Niagara Riverview Inn” and described it as including three bedrooms and “Complimentary Breakfast.” Guests who stay at 5411 River Road apparently walk up the street to eat at 5359 River Road.

Since our return from Florida, we have observed that the house at 5411 River Road is being used as “a commercial establishment catering to the needs of the traveling or vacationing public by supplying overnight accommodation” – this is how By-law 2015-51 defines an inn. The cars parked in the driveway have had license plates from Ontario, Virginia, Michigan, Quebec, and elsewhere. We have observed people staying in the house walking up toward Grandview Manor for breakfast.

A check of reservations on the Grandview Manor website shows that the “Niagara Riverview Inn” is unavailable for many dates during the coming tourist season, which leads us to believe that the property is actively being rented to tourists.

We are aware that Council has directed city staff to prepare a policy on vacation rentals. We are glad for that, and look forward to introduction of a fair and effective policy. The present complaint, however, does not rely on any possible new by-law, but on existing by-laws. The property at 5411 River Road is being openly used for no other purpose than a commercial one. It is a business, an inn, a mini-hotel. This is contrary to law because it is zoned R2, assessed and taxed as a residential property, and not subject to any fire or health regulations that apply to tourist accommodations. No matter how well or poorly the business is run, it is still illegal. That is why we are reporting this violation to you, and asking prompt remedial action.

Other apparent violations of municipal and provincial law

The use for which 5359 River Road has been approved, namely as an inn, may include the provision of food, according to By-law 2015-50. We believe it is therefore entirely legal for Mr. Pinter to serve breakfast to his guests at 5359 River Road, but only to those guests. The by-law states explicitly that a restaurant is not a permitted use. It is therefore illegal for Grandview Manor to provide food to others. Providing breakfast to guests lodged at 5411 River Road, the “Niagara Riverview Inn” is therefore illegal in a second way. These guests are not only sleeping illegally but eating illegally. Mr. Pinter is in effect operating Grandview Manor as a restaurant.

The use to which 5411 River Road is being put is also likely in violation of Ontario’s Residential Tenancies Act, which provides in Section 134.3.a that “no tenant and no person acting on behalf of the tenant shall, directly or indirectly, sublet a rental unit for a rent that is payable by one or more subtenants and that is greater than the rent that is lawfully charged by the landlord for the rental unit.” If the moneys paid to Mr. Pinter by his guests exceed the money paid by Mr. Pinter to the DSouzas, this would appear to be a clear violation of the Residential Tenancies Act.

Although we know from Mr. DSouza that he has been aware from the start that Mr. Pinter intends to use 5411 River Road for a commercial purpose, we are unsure to what extent legal culpability for the violations of law involved in the current use of this property rests with the DSouzas, and to what extent with Mr. Pinter. What matters to us is that the illegal use of this property cease forthwith, and that it be returned to the residential use for which it is zoned, the use it was put to until now, since long before we moved here in 2010.

Finally, a glance at the Grandview Manor website shows that this business appears to be accommodating tourists and travellers at additional properties zoned R2 in this immediate neighbourhood. The report and complaint in this letter, however, concerns only 5411 River Road, the property immediately adjacent to our home. This is the property that we know most about and whose use affects us most directly.

Addresses

The city should have from its tax records the mailing addresses of both the DSouzas and Mr. Pinter. The postal address we have for Mr. DSouza is: 9 Ramona Blvd. Markham ON, L3P 7T9. The postal address we have for Mr. Pinter is: 3490 Cardinal Dr, Niagara Falls ON, L2H2X3.

Conclusion

We regret having to make this complaint. When Alfred and Collette DSouza took possession of 5411 River Road in 2012, we welcomed them to this neighbourhood, and we have maintained friendly relations with them. When Mr. Pinter took possession of 5359 River Road in 2014, intending – so we thought – to operate the property as a B&B, we took him a potted plant as a gesture of welcome, and we have supported his imaginative overhaul of that property.


Both the DSouzas and Mr. Pinter are aware, however, that we cannot accept any illegal use of the property next door to our home, and that we are intent on maintaining this residential neighbourhood in keeping with the Official Plan and relevant by-laws. As a gesture of good will, and toward maintaining friendly relations, we are copying this letter by email to them. We are also copying Mayor Diodati and members of Council.

Thank you for your attention to this letter, and for all your work on behalf of this city. We will be glad to provide further information, and look forward to hearing from you.

Sincerely,

Handwritten signatures of Kenneth and Anne Westhues in black ink. The signature on the left is 'KENNETH WESTHUES' and the signature on the right is 'Anne Westhues'.

Kenneth and Anne Westhues



Niagara Riverview Inn 3 Bedroom Vacation Rental with Complimentary Breakfast, Sleeps 6

If you're looking for a fabulous Niagara Vacation Rental, then look no further. This three bedroom home offers warm inviting décor and provides a welcoming feel to your group or extended family gatherings. Niagara Riverview Inn is located on River Road and is just 5 doors down from our sister property, Niagara Grandview Manor. The Falls, Casino Niagara, Clifton Hill and many other attractions are within a 10 minute walk. Shopping and pharmacies are also just a short walk away.

The home comfortably sleeps 6 persons in a total of 3 bedrooms (Queen Beds) and is serviced by a single bathroom. The home is centrally heated air-conditioned. Built in 1965, this bright and airy home is typical of the architectural period with a split level design, hardwood floors, large bay window overlooking the Niagara River.

COMMON SPACES

After a day of experiencing Niagara's fabulous scenery, our guests can retreat to the large living room complete with numerous couches, reclining chairs, and writing desks. All the modern comforts of home are here including a large flat screen TV, Blue Ray Player, radio, complimentary Wi-Fi, patio, and more. The large dining area is perfect for board or card games and makes a great space to reflect on the days experiences.

DECKS AND PATIOS

This home features a large patio and offers a great vantage point to admire the rock strata of the Niagara Gorge. The rear yard patio is cozy and tucked amongst pine trees offering sha

AVERAGE NIGHTLY RATE
\$156⁶⁰
CAD

26 Wed
\$152¹⁰ CAD

27 Thu
\$161¹⁰ CAD

BOOK NOW

Amenities and Services

- Alarm clock
- Cable TV
- DVD Players
- Hairdryer
- Multi-Storey Property
- Patio / Balcony
- Shower Tub Combo
- Wireless Internet
- All Rooms with AC
- Coffee Maker
- Full Private Bath
- Internet Access
- Multiple Beds in Multiple Rooms
- Riverview
- Split Level - With 4 - 6 Stairs
- Bed Lamp
- Drinks in room
- Gorge View Room
- Microwave
- No Smoking
- Rooms have TV
- Very Quiet


Other Availabilities JULY 2017

SUN	MON	TUE	WED	THU	FRI	SAT
						x
x	x	x	x	x	x	x
9 <input type="checkbox"/> \$386	10 <input type="checkbox"/> \$386	11 <input type="checkbox"/> \$386	12 <input type="checkbox"/> \$386	x	14 <input type="checkbox"/> \$413	x
16 <input type="checkbox"/> \$386	17 <input type="checkbox"/> \$386	18 <input type="checkbox"/> \$386	19 <input type="checkbox"/> \$386	20 <input type="checkbox"/> \$386	x	x
x	24 <input type="checkbox"/> \$386	25 <input type="checkbox"/> \$386	x	27 <input type="checkbox"/> \$386	28 <input type="checkbox"/> \$413	29 <input type="checkbox"/> \$431
30 <input type="checkbox"/> \$386	x					

- Private balcony
- Free Parking & Wifi
- Superb Gorge View

1 King Bed + Room Details and Flexrate calendar

Multiple Beds Rooms



Niagara Riverview Inn 3 Bedroom Vacation Rental with Complimentary Breakfast, Sleeps 6

Your Bonus offer : Book Direct and Recieve a Bonus Gift

Gift includes organic personal care items from NEOB, chocolates courtesy of Chocolate FX, contemporary romance CD Set, 2 for 1 Passes to Bird Kingdom, Wine Tasting Vouchers, and a bottle of Niagara Wine!

AVERAGE NIGHTLY RATE
\$156⁶⁰ CAD


BOOK NOW

- Superb Breakfast Included
- River and Gorge View
- Free Wifi & Parking
- Walk to the Falls

1 King Bed

Multiple Beds in Multiple Rooms + Room Details and Flexrate calendar

Multiple Beds Rooms



Niagara Grandview Hennepin Room – Garden Level with Two double beds and direct

Multiple Beds Rooms