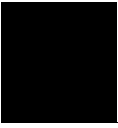


Ontario Land Tribunal

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**Participant Status Request Form and
Participant Statement Form**

This form is expected to be provided at least 10 days in advance of the first hearing event to the Tribunal and all parties. Please contact the assigned Tribunal Case Coordinator to verify the relevant contact information for the parties. A paper copy of this form must also be provided to the Tribunal Member at the first hearing event.

Important: This form includes your written request for participant status and your participant statement. The presiding Tribunal Member will consider your request and the participant statement provided below at the hearing event prior to determining whether to grant you participant status and accept your participant statement.

Request Date (yyyy/mm/dd): 2022/08/19

Case Information

Tribunal Case Number: OLT-21-001728

Date of Case Management Conference/Hearing (yyyy/mm/dd): 2022/09/02

Contact Information

Last Name: Manson

First Name: Linda

Company Name: _____

Telephone Number: 905.358.3823

Email Address: writeon@sympatico.ca

Representative Contact Information (if applicable)

Last Name: _____

First Name: ____

Company Name: _____

Telephone Number: _____

Email Address: ____

- I certify that I have written authorization to act as a representative and I understand that I may be asked to produce this authorization at any time.
-

Status Request Details and Participant Statement

A person who wishes to participate in a proceeding as a participant (and not a party) may only make a submission to the Tribunal in writing in accordance with [section 17 of the Ontario Land Tribunal Act](#) and Rule 7.7 of the OLT's [Rules of Practice and Procedure](#).

In the space below, describe your interest in the case, your position on the issues and an explanation of your reasons in support of your position. You may also provide documentation or attachments to support your request. The information you provide will be your participant statement.

My Interest In This Case

My home (of 40+ years) sits 3 blocks west of the proposed Vacation Rental Unit (VRU) site — in a residentially zoned neighborhood ... with extensive pre-approved “as of right” zoning for legal VRUs in tourist/commercial areas to the north, south and west of me ... and several illegal VRUs operating within a stone’s throw of my home. If OLT upholds council’s approval of an OPA and ZBA in this case — as ‘worthy’ of precedent-setting special consideration in spite of questionable compliance with justification criterion (my position) and long-term, repeated violation of VRU Licensing By-Law terms and conditions (a matter of public record) — what possible grounds would council have for not approving any/all such applications in my residential neighborhood ... or ANY other in our city?

My Position on the Issues

In opposition to OPA 139 and ZBA 2021-96, my focus is primarily on two issues:

- Questionable compliance with OPA 127, 1.b criterion (in PART 2, Section 1.10.5): “An undue concentration of Vacation Rental Units is to be avoided in order to reduce the impact on the character of the residential nature of the area and residential enjoyment of permanent residents.”
- Historic non-compliance with OPA 127, 1.b (in PART 2, Section 1.10.7): “Vacation Rental Units will be subject to a licensing by-law passed under the Municipal Act, 2001, designed to regulate the operational aspects of Vacation Rental Units”

Explanation of My Reasons in Support of My Position ...

- Questionable compliance with OPA 127, 1.b criterion (in PART 2, Section 1.10.5):

City planning staff’s recommendation to approve — and City Council’s approval of — the application for a VRU at 5411 River Road included presentation and acceptance of the ‘claim’ there is “no undue concentration” of VRUs in this residential neighborhood — a ‘fuzzy criterion’ in OPA No.127, subject to ‘full disclosure’ of all relevant facts, determination of what facts are relevant, and ‘interpretation’ of how “concentration” should be defined and measured ... rendering this ‘claim’ questionable.

(Continued on next page ... /3)

Explanation of My Reasons in Support of My Position ...

Questionable compliance with OPA 127, 1.b criterion (in PART 2, Section 1.10.5):

In support of my position, I offer the following for OLT consideration:

Due to 'grand fathered' cases from the 'cottage' era ...

- Two (2) properties are legally licensed for VRUs in the River Road Satellite District.
- Eight (8) are pre-spot-zoned for legal VRU (i.e. could be licensed) — 8 of 10 (80%) in existence citywide.

Question: How many is an “undue concentration?”

Beyond that ...

According to Gerald Spencer, manager of municipal enforcement services with the City of Niagara Falls (in his August 9, 2022 on-camera presentation to city council), staff has found “about 1,000” illegal VRUs (citywide) being advertised online (on Airbnb/vrbo/other sites).

Questions:

- How many of these illegal VRUs were identified in the River Road Satellite District neighborhood?
- Were these illegal VRUs factored into staff's recommendation and council's decision?
- Would this then meet the 'criterion' of an “undue concentration”?
- Can the city truly claim this VRU spot-zoning involves “no undue concentration” while illegal VRU proliferation is admittedly out of control?

Plus ...

- There are many legal (owner occupied) B&Bs operating in this neighborhood “as of right.”
- A special policy 12-room 'Inn' sits a few doors away.

Question: Have these been factored-in?

Section 2.1 of the *Planning Act* requires that OLT have regard for Niagara Falls City Council's decision in this matter, and for the information Council considered in reaching its decision.

Question: Was Council approval truly based on full disclosure?

A 'low-bar' precedent-setting definition of “No undue concentration” would render the by-law supposedly restricting VRUs in residential areas 'worthless'.

Explanation of My Reasons in Support of My Position ...

Historic non-compliance with OPA 127, 1.b (in PART 2, Section 1.10.7):

In accordance with Section 8 of the Municipal Act, 2001, S.O. 2001, c.25 ...

OPA No. 127 requires that vacation rental units be subject to the City's By-law to Regulate and License Vacation Rental Units (By-Law 2021-57, May 2021).

Under the terms and conditions set-out in By-Law 2021-57, the out-of-town owners and/or long-term leaseholder of 5411 River Road have an historic public record of serious, repeat and varied non-compliance that would prohibit them from being issued a licence, including: illegally operating that dwelling as a VRU (since 2017); ignoring cease and desist orders from the City; submitting false information in a sworn statement to the City ... (per documented evidence to be presented by the appellant).

[See *Non-Compliance with VRU Licensing By-Law 2021-57 — In This Case ... [Grounds for Refusal of Licence to Operate] on next page /4.]

Violation of bylaws is grounds for refusal of a licence to operate a VRU.
No licence, no operation ... Solid, logical grounds for denial of this OPA and ZBA.
Yet council approved it.

(Continued on next page ... /4)

Explanation of My Reasons in Support of My Position ...

□ Historic non-compliance with OPA 127, 1.b (in PART 2, Section 1.10.7):

Section 2.1 of the *Planning Act* requires that OLT have regard for Niagara Falls City Council's decision in this matter, and for the information Council considered in reaching its decision.

Questions:

- Was Council approval based on full disclosure?
- Were Councillors justified in ignoring repeat, ongoing bylaw violations in this case?
- Is there justification for changing the city's official plan and zoning — to accommodate bylaw offenders?

A 'low-bar' precedent-setting definition of 'who can apply' would further render the by-law supposedly restricting VRUs in residential areas 'worthless' — by essentially posting a "VRUs Welcome Anywhere, to Anyone!" sign all across our city.

***Non-Compliance with VRU Licensing By-Law 2021-57 — In This Case ... [Grounds for Refusal of Licence to Operate]**

2. GENERAL AND PROHIBITIONS: No Person shall ... [3] own or operate, or permit the operation of a Vacation Rental Unit without a current valid licence; [5] own or operate a Vacation Rental Unit other than in accordance with the terms and conditions of a licence, the terms and conditions of this By-law; [6] advertise, promote, broker, or offer for rent or lease a Vacation Rental Unit without a current valid licence. [11] Every Person who knowingly makes a false statement in an application, declaration, affidavit or paper writing required by this By-law or the City is guilty of an offence; [12] No Person who is issued a licence pursuant to this By-law shall contravene any provision set out in this by-law, any other municipal by-law, federal or provincial Act, Statute, or any other legislation applicable to the licensed premises.

4. LICENCES: [4.2] The Licence Issuer is hereby delegated authority to impose additional terms and conditions on a licence that in the opinion of the Licence Issuer are reasonable and taking into consideration: (b) the impact on a neighbouring property or a neighbouring property owner; (c) the past conduct of an applicant or a licensee. [4.3] The Licence Issuer is hereby delegated authority to revoke, suspend, refuse to issue, or refuse to renew a licence, where the applicant or licensee would not be entitled to a licence, or to the renewal of a licence, on any grounds set out in this By-law.

7. LICENCES – GROUNDS FOR REFUSAL, REVOCATION OR SUSPENSION: [7.1] An applicant or licensee is entitled to a licence upon meeting the requirements of this By-law except where: (a) past or present conduct ... affords reasonable cause to believe that the person will not carry on or engage in the business in respect of which the application is made in accordance with the law or with honesty or integrity; or (b) the applicant or licensee has past breaches or contraventions of any law or any provision of this By-law; or (e) the applicant or licensee has failed to comply with the requirements set out in this By-law; or (g) the applicant or licensee has submitted an application or other documents to the City containing false statements, incorrect, incomplete, or misleading information; or (h) the applicant or licensee is carrying on or engaging in activities that are, or will be, if the applicant of licensee is licensed, in contravention of this By-law, or any other applicable law. [7.2] The Licence Issuer may revoke, suspend, refuse to issue, or refuse to renew a licence, where the applicant or licensee would not be entitled to a licence ... on any grounds set out in this By-law.

11. AUTOMATIC INITIATION OF REVOCATION AND REFUSAL TO RENEW: [11.1] A Licence Issuer shall refuse to issue or revoke a Vacation Rental Unit licence in accordance with the provisions of this By-law where the City has determined three (3) valid violations have occurred or three (3) convictions have been registered and occurred at the property within a one (1) year period.

Participant Status Request & Participant Statement - Summary ...

The case at hand, OLT-21-001728, is about a proposed 'exception to the general rule' against allowing VRUs in residential neighborhoods. For every reason stated via the Draft Issues submitted by Ken Westhues — every valid question he is asking as to whether there is adequate justification to support this application, given the priorities and objectives of Provincial Policy, Growth Plan for the Greater Golden Horseshoe, Niagara Region Official Plan, and Niagara Falls Official Plan — I respectfully ask that you grant me participant status and accept my statement, in support of this appeal ... in opposition to this OPA and ZBA. Thank you. ~ Linda Manson

This Participant Status Request & Statement emailed to the following, same day (per SCHEDULE A): Tamara Zwarycz, Case Coordinator, OLT: <Tamara.Zwarycz@ontario.ca>

Rocky Vacca, Lawyer for the Applicant : <rvacca@sullivanmahoney.com> Tom Halinski, Lawyer for the City of Niagara Falls: <thalinski@airdberlis.com>

Ken Westhues, Appellant: <kwesthues@uwaterloo.ca>