

**From:** Kenneth Westhues

**Sent:** 08 May 2017 09:57

**To:** John Pinter; jdiodati; 'alfred'; wcampbell; kcraitor; ioannoni; vkerrio; joycemorroco; vpietrangelo; mstrange; wthomson; 'Joseph Hughes'; Alex Herlovitch  
**Subject:**  
Complaint about illegal use of 5411 River Road

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

Dear Mr. Herlovitch:

You will have received yesterday an email entitled "Official Rebuttal from John Pinter in regards to Ken Westhues complaint regarding the business operations at 5359 River Road."

Would you and anyone reading Mr. Pinter's email please refer back to the letter my wife Anne and I sent you on May 1, since Mr. Pinter has mixed up what our complaint is about.

### **A mix-up of properties**

So far as I know, none of the complaints you have received concerns the inn Mr. Pinter is operating legally at 5359 River Road, in compliance with By-law 2015-51. For our part, Anne and I generally admire his project there and wish him success with it.

Our complaint concerns his business operations at properties not covered by By-law 2015-51, properties zoned R2 that are assessed and taxed as residences, specifically the property at 5411 River Road, next door to our own home. His business operation at this location, what he calls "Niagara Riverview Inn," is illegal. By-law 2015-51 does not apply to it.

### **A B&B is a home business**

Mr. Pinter describes his operation at 5411 River Road as a "bed and breakfast." We would not complain if this were true, if it were in fact a licensed B&B. A B&B is somebody's home. The business of accommodating guests is *ancillary* or *accessory* to residence. This is clear in the by-laws of numerous Ontario municipalities, as also in the 2012 decision of the Ontario Municipal Board in the case of *Veal v. Adams* here in Niagara Falls.

What Mr. Pinter is operating next door to us is not a B&B. Nobody lives there or is even served breakfast there. The business is not ancillary or accessory to anybody's residence. It is a purely commercial venture run by an absentee tenant in a house owned by an absentee landlord.

## **Compliance with current zoning**

Mr. Pinter sketches his vision for commercialization of the River Road neighbourhood, proposing revisions to the Official Plan and new zoning by-laws that he would like to see Council approve. Our complaint, by contrast, relies on the Official Plan and zoning by-laws currently in force, which apply equally to all of us.

## **Communications**

Mr. Pinter has been aware of our concerns about his overall business plan for at least a year. We have communicated our specific concerns about the use of 5411 River Road to Alfred and Collette D'Souza, owners of the property. As early as January 15 and as recently as April 17 and 18, I reminded the owners that we would oppose any illegal use of their property. I understood that Mr. D'Souza conveyed our concern to Mr. Pinter, as his tenant. If he did not, that is a matter between them.

## **Where we go from here**

I regret that Mr. Pinter's email confuses and personalizes our dispute over the illegal commercial use to which he has put the house next door to us. He is an able, imaginative, hard-working businessman who has simply overstepped what Council has approved for his enterprise.

We appreciate your referral of this matter to the Enforcement Division and look forward to its resolution according to law. Respect and regards from Anne and me to you, Mr. and Mrs. D'Souza, Mr. Pinter, Mayor Diodati and Councillors.

Kenneth Westhues  
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