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The Town of Niagara-On-The-Lake

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Report: CDS-15-022

Committee Date:

March 16, 2015

Due in Council:

March 23, 2015

Report To: Community & Development Advisory Committee
Subject: Rooming Houses

1. RECOMMENDATION

It is respectfully recommended

- 1.1 That Town staff investigate and report back to Council with respect to alternatives to a long-term rental licencing by-law that are aimed at achieving the overall objectives of safety within all dwellings and addressing behavioural concerns associated with large numbers of rental properties within one specific geographical area; and,
- 1.2 That increased resources and focus be given to the enforcement of existing Town by-laws.

2. PURPOSE / PROPOSAL

The purpose of this report is to respond to a motion passed by Council on January 19, 2015 which directed staff to: "Investigate the necessary steps to implement a plan for creating a process to licence rooming houses/student rentals and the safety aspect be included in the plan; and that a report be prepared for the March Committee of the Whole Meeting".

3. BACKGROUND

The Town of Niagara-on-the-Lake does not currently have a procedure or by-law in place by which a property owner, renting out all or a portion of their property for longer than 28 days to tenants for residential use, is required to have a licence. The Town only licences Short Term Rentals which, by definition, means "the use of a building for overnight guest lodging for a period of not more than 28 days and includes Bed and Breakfast Establishment, Cottage Rentals, Villas, Country Inns and Vacation Apartments".

4. DISCUSSION / ANALYSIS

The discussion relating to a potential review of a long-term residential rental licencing by-law for the Town of Niagara-on-the-Lake originated based on concerns relating to rental accommodations in the Glendale area. Rental properties within this area are primarily marketed to students attending Niagara College. The primary objective to this investigation is to ensure adequate levels of safety within all dwellings and to address the behaviours that are often associated with large numbers of rental dwellings in one specific area (e.g. general disturbances, parking, noise, property maintenance, litter and waste management etc.).

A Planning Act provision restricts by-laws from distinguishing between individuals or families living together and suggests that people living together do not have to be related by blood or marriage to be deemed a "household". The Municipal Act underwent many amendments in 2007 one of which related to the disbandment of legal conditions which restricted municipalities from licencing, regulating or governing the rental of residential units. Now, municipalities are empowered by legislation to standardize rental accommodations through a licencing process similar to other forms of business. Current legislation permits municipalities to develop by-laws which distinguish between geographic areas of the municipality and/or by class and type of building. However, caution must be taken when considering such differences. The Ontario Tenants Act defines a "rental unit" as a "means of living accommodation used or intended for use as rented residential premises, and "rental unit" includes:

- A site for a mobile home or site on which there is a land lease home used or intended for use as rented residential premises; and,
- A room in a boarding house, rooming house or lodging house and a unit in a care home."

The Ontario Human Rights Commission (OHRC) has noted their concern with licencing programs related to the licencing of long-term rental accommodations and suggest that licencing programs have the potential to unfairly discriminate against particular groups of people within the population. Therefore, the OHRC is closely observing and monitoring any efforts being made by Ontario municipalities with respect to the development of residential rental licencing programs.

When embarking on rental housing licencing, the OHRC advises municipalities to:

- Consider the Ontario *Human Rights Code* before drafting the bylaw and refer to the *Code* in the bylaw; and,
- Consult with *Code* -protected groups; and,
- Make sure that meetings about the bylaw do not discriminate; and,
- Roll out the bylaw in a consistent, non-discriminatory way; and,
- Work to secure existing rental stock; and,
- Avoid arbitrary bedroom caps; and,
- Avoid gross floor area requirements that exceed the Building Code; and,
- Eliminate per-person floor area requirements; and,
- Eliminate minimum separation distances; and,
- Enforce the bylaw against the property owner, not the tenants; and,

- Protect tenants in cases of rental shut down; and,
- Monitor for impacts on Code groups; and,
- Make sure licencing fees are fair.

Council's direction to staff is based primarily on concerns relating to one defined geographical area of the Town. However, despite legislation as explained above which allows for licencing by-laws pertaining to geographic areas within a municipality, the OHRC recognizes significant challenges to this approach. Therefore, should Council wish to implement a long-term rental licencing by-law, a comprehensive approach to a Town-wide licencing program would be the recommended solution to addressing an issue that is most prevalent in one specific area.

A number of concerns directed towards Town staff relating to long-term rental houses have been behavioural in nature. These include concerns related to general disturbances, parking, noise, and maintenance of properties. Current Town by-laws are in place to address these concerns and the Town's By-law Enforcement Department has made efforts to increase enforcement to combat these issues within affected areas. Town staff is not confident that a long-term residential licencing by-law would have a long lasting and satisfactory impact on concerns that, for the most part, are behavioural in nature.

The potential benefits however, that a licencing program could provide to the Town are outlined as follows. Tenants would benefit from a licencing program by way of the establishment of safe rental housing and education with respect to all applicable regulations for rental housing. Additionally, landlords could also benefit by gaining legalized documentation for their rental as well as the assurance that their property complies with all applicable regulations. Neighbours are an added beneficiary as a licencing program for long-term residential rentals would provide provisions aimed at the proper maintenance and care of rental properties.

Town staff spent time researching other municipalities including Kitchener, Waterloo and Barrie and their experiences with similar licencing programs. It can be assumed that a full review and development of a long-term residential rental program would be extremely time consuming and have a significant impact on staff time and resources. The costs associated with the implementation and on-going administration of such a program cannot be fully estimated at this time however, we know it would be significant based on the experiences of other municipalities. In researching other municipalities' approaches, it is apparent that each municipality is addressing concerns unique to their specific circumstances. It is staff's opinion that replicating another municipality's by-law would be insufficient to address the unique concerns of Niagara-on-the-Lake.

Waterloo's licencing by-law was passed in May of 2011 and came into force and effect in April of 2012. Waterloo staff advised that their research and development phase leading to the enactment of the by-law lasted approximately two (2) years. Their review team consisted of representation from their By-law Enforcement, Fire, Building, Planning, Legal, Communications and Finance Departments.

Town staff are in agreement with other municipalities, such as Kitchener, in their decision to investigate alternatives, other than long-term residential rental licencing, that are aimed at achieving the overall objectives and addressing the underlying concerns. Staff recommend providing increased resources to enforce existing regulations and believe that this approach would have a more efficient and effective impact in addressing the issues raised by Council. Further, it is suggested that this approach would be a better use of Town and staff time and resources.

5. FINANCIAL IMPLICATIONS

It should be noted that such a review will be time consuming and will have a large impact on staff resources. It is difficult to give a particular dollar value to this, however, there is likely to be some hindrances placed on staff with respect to other tasks during a potential review process.

The costs that would be incurred by the Town to develop and implement a long-term residential rental program must be balanced against the estimated benefits. Staff believe that municipal resources could be better applied to greater enforcement of existing regulations to achieve the same objectives.

6. COMMUNICATIONS

As a result of researching other municipalities, Town staff have discovered that the existing by-laws have fundamental differences. Thus, should Council wish to continue with a review process, further direction is required with respect to the intended outcome of an investigation. Below are some main points of focus identified by other municipalities throughout their investigations:

- Identifying the classes of buildings to which the by-law may apply; and,
- Identifying the geographic area to which the by-law may apply, (Town-wide versus area specific); and,
- Implementation (e.g. a phased approach?); and,
- Associated costs with respect to staff resources, on-going administration, enforcement, licence fees; and,
- Ensuring that the review process allows for public comment and consultation.

A by-law development process must include extensive public consultation to ensure all viewpoints are heard. Further, it is important to consider the expectations and concerns of those who would be directly impacted by the implementation of a licencing program. There are existing Town by-laws in place to deal with certain types of behaviours and although a licencing mechanism can assist with behavioural issues to a certain degree, it should not be considered as an acceptable alternative to the enforcement of existing by-laws.

7. CONCLUSION

Town staff recommend investigating alternative measures to addressing concerns related to rooming houses and student rentals within Niagara-on-the-Lake and enhanced enforcement measures for existing by-laws.

Written by,

for 

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ATTACHMENTS

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