
TIARA Newsletter

Autumn 2006

A Community Unnecessarily Divided

Owners of small islands were justifiably alarmed this summer when the Township of Leeds and the Thousand Islands published a draft version of its proposed new Zoning By-laws. Zoning By-laws are detailed regulations that support the township's new Official Plan adopted by Council in April.

The **draft** By-laws were developed by the same Ottawa Planning firm that prepared the new Official Plan and were published as part of a consultation process with the community. Unfortunately, the draft was not thoroughly checked by the Township's Planning Department before being distributed and published on the township's web site in July.

www.townshipleeds.on.ca

The draft contains several errors, the most disturbing of which is in the section pertaining to islands located south of Highway 401:

"Notwithstanding any other provisions of this By-law to the contrary, no building or structure may be erected, enlarged or replaced on an island having an area less than 2.5 acres."

When read on its own, the clause appears to remove existing grand fathering provisions. But later in the draft, there are specific adjustment and control mechanisms that permit modifications and replacements of existing structures on undersized islands.

The new Official Plan increases the size of an "undersized Island" from 2 acres to 2.5 acres or 1 hectare. TIARA supported this recommendation by the Official Plan citizens review committee because it strengthens natural shoreline and water quality protection and helps to prevent over development in the islands.

Even though municipalities would never be allowed by the Province to enact a regulation that removes an existing grand fathering provision, such as the one that currently exists for undersized islands, Islanders were naturally very concerned - in fact, rightfully fearful. Rumours began to circulate that the new By-laws prevented even the simplest of property repairs.

However, the draft By-laws also contain several clauses which completely contradict the erroneous text and by all accounts supersede it.

Nothing in this By-law shall prevent the strengthening to a safe condition of any legal non-conforming building or structure or portion thereof, provided that the alteration or repair does not increase the height, area or volume and the use of such building or structure is not changed, unless changed to a permitted use.

Nothing in this By-law shall prevent the rebuilding or repair of a legal non-conforming building or structure that is damaged by involuntary means subsequent to the date of passing of this By-law, provided that:

(i) the external dimensions of the original building or structure are not increased and that the use of such building or structure is not altered;

(ii) its relationship to site boundaries or high water mark is not altered;

(iii) reconstruction or restoration is commenced within 12 months of the date on which the damage took place and completed within 24 months.

Despite TIARA's best efforts to assure Islanders that the draft contained errors and that we would make absolutely certain that only the appropriate clauses

would be the ones supported during the consultation and review process, numerous additional false rumours began to circulate. We were startled to learn that a great number of people had been led to believe that TIARA actually favoured removing the grand fathering provision! **Nothing could be further from the truth.**

In mid August, a large group of Island owners and their supporters attended a TLTI Council meeting and in no uncertain terms, expressed their collective concerns about the draft By-Laws. Under considerable pressure from the crowd, Council agreed to **not pass** any new By-laws, and further, to recommend that the new Council elected in November hold a public consultation with Islanders in the summer of 2007 before adopting the By-laws.

While beneficial to the affected Islanders, the delay halted all work on the review and amendment process - errors in the draft intact. As a consequence, other parts of the Township not directly affected by the legitimate concerns of the Thousand Islanders would also experience up to a year's delay in the passing of unrelated By-laws specific to their areas.

To address the impact of the delay, Ward 1 Councillor Douglas Mackintosh attempted to call a special meeting of Council to revisit its decision and consider delaying only those problematic portions of the By-laws affecting Islands south of Highway 401. However, one of four Councillors required to constitute the special meeting, who had agreed to attend, failed to show and the meeting was cancelled.

Interestingly, it was around this time that another rumour began to circulate that Councillor Mackintosh had called the special meeting to surreptitiously pass the entire By-law. Once again, **nothing could be further from the truth.**

At a Council meeting in late August, TIARA requested the municipality to reconsider the delay and to resume the review and amendment process. Council, not aware that staff had stopped the review process in its entirety, agreed with a recommendation from municipal staff to resume the review and consultation process.

As it stands, the same citizens planning advisory committee (which includes an Islander) that delivered the final draft of the new Official Plan adopted by Council is now reviewing and recommending amendments to the draft By-laws. A report to Council from the committee is expected to be available sometime early in the New Year.

One thing is clear in all of this. Trust fades quickly when property rights are threatened and many extraordinary lengths are taken to protect them.

OMB Dismisses Island 90 Appeal

In February 2005, the owners of this 0.6 acre undeveloped island applied to the Township of Leeds and the Thousand Islands to build a dwelling. Island 90 is located in the Lost Channel next to a National Park Island and visible from the Thousand Islands Bridge. The Official Plan of the day prohibits development on undersized Islands, (2 acres), save extraordinary provisions and conditions.

In July 2005, at the 12th hour and only by chance, TIARA became aware that the township's staff planner intended to recommend to Council in two day's time that the proposed development be approved. TIARA quickly alerted as many people as possible and began to lobby individual Councillors to oppose the staff planner's recommendation. In a tie vote broken by the Mayor, Council denied the application.

This past February, the owners of Island 90 appealed Council's decision to the Ontario Municipal Board.

Fortunately, Council agreed to defend its decision, despite a recommendation by municipal staff to abandon it. TIARA partnered with the Township in hiring a professional planner for joint representation at the hearing and we agreed to split the cost equally.

TIARA contracted with professional planner Anthony Usher from Toronto and a hearing was scheduled for early May in Lyndhurst. Tony has been instrumental in successfully guiding TIARA through several planning related matters, including the development of the new TLTI Official Plan.

The hearing lasted one day and was presided over by one OMB panel member. Several professionally qualified witnesses were called for each side. TIARA President Peter Macklem spoke in opposition along with several other nearby property owners.

In addition to arguing the proposed development was inconsistent with the stated objective of the former Official Plan, Mr. Usher cast considerable doubt on the technical aspects of the application, such as setback measurements from the high water mark and the resulting size of the proposed building envelope.

Even though the owner's application was made in the months prior to the adoption of the new, more restrictive Official Plan, the Board member concluded it was reasonable for the township to be guided by its current policy framework in exercising its discretion, (i.e. the new OP), particularly since the applicable Official Plan dated back to 1987. For this and several other key reasons, the owner's application was dismissed.

A summary of the hearing and the full decision is available at the OMB Web site:

www.omb.gov.on.ca

Click on **E-Decisions**, search for **"Island 90"** and select file **pl05090** from the list of search results.

A Sea Change in Township Governance

If we have your correct e-mail address, you are aware of the significant changes taking place in our local municipal governments. (For periodic e-mail updates from TIARA, send an e-mail message to **info@tiara.on.ca** and your e-mail address will be added or corrected on our list.)

In Front of Yonge, three term Reeve Mark Pergunas was defeated by Councillor Roger Haley by 14 votes: (Roger Haley 485, Mark Pergunas 471)
FoY Councillors elected are: Greg Healy 726, Robert Morrison 660 (I), and long serving Councillor Gail Williams 666 (I) (I) = Incumbent

In TLTI, the Mayor and 5 of 6 Councillors are being replaced at the table with several new faces. Regrettably, Douglas Mackintosh will not be among them. Douglas has devoted his energies in the best interests of the entire community for three terms now and TIARA will greatly miss his first hand insight into municipal issues. Without question, all residents of TLTI are better off for his many years of selfless service.

TLTI Mayor (I)=Incumbent (E)=Elected

Frank Kinsella (E) 2373

Harold Grier (I) 1517

John Willoughby 319

Councillors Ward 1

Jeffrey Lackie (E) 1566

Tom Lawler (E) 923

Geraldine Dickson (E) 879

Bud Andress 878

Harold Emmons (I) 855

Douglas Mackintosh (I) 527

David Lindsay 366

Douglas Wood 167

Garnet Burns 112

Councillors Ward 2 (North)

Velma Kelsey (I) (E) 674

Charlie Kellington (E) 659

Daryl Wade 532

Kenneth Dobing (I) 440

Councillors Ward 3 (Escott)

Andrew Hodge (E) 308

Carol Ann Wagner 305

TIARA extends its sincerest appreciation and thanks to the Mayors and Councillors who are not returning. Each has made numerous beneficial contributions to our community and we are truly grateful. We also congratulate the new Mayors and both new and returning Councillors. We sincerely wish them nothing but the best of successes during their terms. The length of municipal Council terms in Ontario is now three years instead of four.

WRAFT Update

Thanks to the efforts of WRAFT (Waterfront Ratepayers After Fair Taxation), TIARA members now belong to the largest coalition of property owners in the history of the province, currently estimated to be well over 2 million!

Until this past spring, WRAFT had been the sole leader of the property tax reform movement in Ontario. Waterfront owners were among the earliest to be hit with extraordinarily high assessment increases under the current market value system. However, so many other non-waterfront property owners were later hit with inordinately high assessments that WRAFT established an additional lobby group called CAPTR (Coalition after Property Tax Reform).

CAPTR is a quickly growing coalition of over 700 property owner groups and other associations, including the initial 250 WRAFT member associations.

This has turned out to be a remarkably beneficial strategy because it quickly garnered serious attention of Queen's Park politicians from all parties, including the current Finance Minister. While WRAFT and CAPTR have different Boards of Directors, they share the same Executive Director and spokesperson. TIARA is represented on WRAFT's Board of Directors.

WRAFT was instrumental in securing the current two-year assessment moratorium while the government reviews the Ontario Ombudsman's recommendations regarding MPAC, (the Municipal Property Assessment Corporation).

Given the dramatic assessment increases in the last two assessment years, WRAFT calculates that waterfront property owners will save, on average, a 24% increase in property taxes as a direct result of the moratorium. This is a direct result of WRAFT's efforts.

WRAFT and CAPTR's goal now is to achieve an annual assessment capping of 5% based on the 2004 assessment year. All 2004 assessment challenges have been cleared. The rationale behind this objective and other news about the growing property tax reform movement in Ontario can be found at:

www.wraft.com and **www.captr.org**

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