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# TIARA Newsletter

## Autumn 2008

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### MPAC's Negative Impact - By Lukas Meuter

**"If nothing is done, middle class families will be looking at double digit property tax increases every year for at least the next four years"**

The recent MPAC assessment notices have once again rekindled the debate over fairness in property taxes. Island and shoreline property owners have been hit the hardest with many TIARA members reporting increases in excess of 160 and 200%. With the current general economic downturn, property values assessed as of 1 January 2008 are now decreasing in value making most assessments increasingly unrealistic.

Properties that are more expensive **have always borne a higher tax burden**, but in some communities, such as Leeds & the Thousand Islands, often punitively so, since many of its properties are on lakes or islands, where they receive minimal services from the township.

In many other cases, the actual services received from the township are far outweighed by the property tax burden. Now that the new 2008 MPAC assessments indicate a further worsening of the level of fairness it is time to consider putting a cap on property taxes.

**What can we do?** The province's property tax reform of 1998 was intended to introduce a fair and accountable system of property assessment and taxation. It delivered only on assessment.

Currently, the fundamental premise of our property tax system is that properties should be taxed strictly "on the basis of their market value, not on the basis of the relative use that property owners make of local services. Apparently, fairness is not a consideration. The time has come for that to change.

**TIARA proposes a capping and graduated rate system** each of which will go a long way towards fairness in the system. For details of the proposal and examples, visit TIARA's website [www.tiara.on.ca](http://www.tiara.on.ca)

It is unlikely that either of these schemes can be introduced without reference to the Province, so that is where TIARA is focussing its energies. TIARA Directors have written and personally contacted all regional mayors, County Councillors, local municipal councillors and area MPPs. In the meantime, property owners have until 31 March to file a "Request for Reconsideration" with MPAC. For details, visit [www.mpac.ca](http://www.mpac.ca)

### OMB Approves Glen House Marina

The **Official Plan** of the Township of Leeds and the Thousand Islands requires that any new commercial development south of Highway 401 be subject to an Official Plan Amendment. In the case of the commercial marina owned and operated by the Glen House Resort located in a **Rural Residential Zone** on the Thousand Islands Parkway, TIARA has long argued that although a small docking facility for islanders had existed prior to the implementation of the current Rural Residential By-law, the marina has in fact been substantially expanded as a commercial operation in recent years to accommodate 44 boats.

The marina owners have on several occasions **unsuccessfully attempted** to have the property involved rezoned to "Tourist Commercial". In 2007, TIARA sought professional planning advice which recommended that the municipality require the marina operator to apply for an OP amendment. **The municipality agreed**. Because of the marina's proximity to a provincially significant wetland, the Point Comfort Marsh and the Ivy Lea wetland

complex, this would have required the marina owners to provide the necessary environmental impact studies as well as an application to amend the Official Plan.

In the spring of 2008, the municipality finally ordered the marina owners to comply and to apply for an Official Plan amendment. In turn, the marina owners appealed to the Ontario Municipal Board arguing that the original docking facility predates the current Zoning By-law and that only a special exception Zoning By-law was necessary. A hearing date was scheduled for this past September and the municipality pledged to defend its position.

What unfolded at the hearing was most disturbing. The municipality's **staff Planner did not even attend**, and as the proceeding got underway, the municipality's solicitor informed the adjudicator that the **municipality was abandoning its position** and would agree to a Special Exception Zoning By-law instead of an Official Plan Amendment. The basis for this turnabout was that the municipality had come to agree with the marina owner that there had been continuous use of the docking facility since prior to the current Zoning By-law.

For TIARA, continuous use of the docking facility has never been the issue. The expanded marina into a commercial operation which is adjacent to a provincially significant wetland has always been and continues to be our primary concern.

Needless to say, we were alarmed, if not stunned at this development. Absolutely none of the evidence presented by the marina owner was challenged by the municipality. While TIARA does not dispute the fact that the facility has been in use since prior to the current By-law, the municipality had previously agreed that the marina had in fact been substantially expanded over the years since the original By-law was passed, requiring an OP amendment.

Because TIARA **expected the municipality to defend** its position at the hearing, we had not applied for party status in order to give evidence. However, the adjudicator did allow TIARA to introduce and file our planning letter from early 2007 which contained detailed professional planning advice on the matter. The letter clearly indicates that under the circumstances, regardless of its continuous use, the marina is in fact a commercial operation which has been substantially expanded and it requires an Official Plan amendment.

In the end, the adjudicator felt that what had previously been a dispute between the marina owner and the municipality had become a **consent agreement** between the two parties. The **special exception Zoning By-law was approved** thereby allowing the commercial marina to operate in a rural residential zone.

The full decision of the adjudicator can be found on the OMB website under E-Status. Enter Case Number **PL080443** and click on the Decision Number. [www.omb.gov.on.ca](http://www.omb.gov.on.ca)

TIARA is currently seeking both legal and planning advice on the matter. If the circumstances warrant, we will apply for an official review of the decision and pursue appropriate legal measures.

### Heritage River Project Update

Our two summer student Research Analysts, Aaron Day and Dan Kingsbury, have completed a remarkable compilation of natural, cultural and historical assets along the Canadian side of the St. Lawrence River from Kingston to the Quebec border. Their work was presented at this year's annual general meeting, where an official from the Canadian Heritage Rivers System

hailed it as one of the most comprehensive background studies that he had ever seen!

With the ingredients gathering steps completed, what remains to be done is writing the formal nomination application for Canadian Heritage River Status for the upper St. Lawrence River. This will require the services of a professional writer with whom TIARA will contract once we have been reimbursed by Heritage Rivers for all of our project expenses to date. At the same time, we plan to further develop relationships with our many contacts and area champions which the researchers and TIARA Directors identified during the project. To accomplish this, the project committee is planning to host a series of receptions along the river with the goals of promoting awareness of the project and to recruit members of a broader river based committee that will eventually oversee and maintain the designation.

## Land Use Planning Concerns in TLTI

The following letter to the editor by TIARA President Peter Macklem was recently published in the **Gananoque Reporter**.

*From its Planning Department through the Municipal Council to the Committee of Adjustment, the Township of Leeds and the 1000 Islands systematically bypasses and contravenes its own Official Land use Plan and Zoning By-laws:*

**1)** *The Committee of Adjustment recently legalized an unlawful addition to a house based on what they knew to be an incorrect land survey and a falsified building permit originally intended for the construction of a detached garage.*

**2)** *The Planning Department has recommended lot severances for developments on Red Horse Lake with setbacks from the shoreline far less than permitted in the Official Plan. Red Horse Lake is specifically designated as Trout Sensitive and requires large setbacks. The Ontario Ministry of Natural Resources and Municipal Affairs and Housing are appealing this decision to the Ontario Municipal Board.*

**3)** *The Planning Department and the Municipal Council informed a marina owner who wished to legalize a substantially expanded non-conforming marina operating near a provincially significant wetland that an Official Plan amendment and an environmental impact assessment would be required. The marina owner appealed to the Ontario Municipal Board. The Mayor stated publicly that the municipality would defend its position. However, quite mysteriously, the municipality's Planner did not attend the hearing and the Township's Solicitor withdrew the Municipality's defense and explicitly consented to the non-conforming marina.*

**4)** *The Cataraqui Region Conservation Authority recently recommended that an application to legalize an unlawfully constructed commercial building on the St. Lawrence River near the water's edge in a provincially significant wetland and flood plain be denied. The TLTI Committee of Adjustment, which is guided by the Municipality's Planner as its Secretary, ignored the recommendation and legalized it. It now appears that the Municipality is attempting to thwart the Conservation Authority's right to appeal the Municipality's decision to the Ontario Municipal Board based on sketchy technical grounds.*

**5)** *Contrary to the Official Plan, the planning department issued a building permit for a second dwelling for two different families on an undersized island in the St. Lawrence River without the required Official Plan and Zoning By-law amendments.*

*All of this gives us, the Thousand Islands Area Residents' Association, the strong impression that the TLTI Planning Department, the Chief Administrative Officer, the Committee of Adjustment and by extension, the entire*

*Municipal Council are derelict in their duty to uphold and enforce the Township's own Official Plan and Zoning By-laws. There is likely to be a gold mine of information as to why this is happening which a good investigative reporter could uncover and make public. Certainly the Township's taxpayers should be informed of the reasons why the laws governing land use in TLTI are being systematically ignored, apparently with Council's knowledge and approval.*

## Land Severance Process in TLTI

Until now, land severance applications for property owners in TLTI have been subject to a review by the Land Division committee of the United Counties of Leeds and Grenville (County Council) in Brockville. Earlier this year, there was a move by some County Councillors, including the Mayor of TLTI, to have some municipalities take over all land severance application approvals independently. Given the history of generally poor quality planning practices in TLTI, TIARA was vehemently opposed to the proposal and made a specific delegation to Counties Council in Brockville where we voiced our concerns.

We are convinced that without the checks and balances provided at the County level, the TLTI landscape would be at great risk of being carved up beyond recognition. We already have considerable evidence of lot subdivisions in TLTI with inappropriately circuitous lot lines and access roads, a bad planning practice anticipated and prohibited in the Official Plan.

Following a study of the issue, County Council accepted a proposal by the County Planner to have all land severance applications reviewed by the County Planning office. Fast turnaround will be provided for straightforward applications while a peer review system will be established for non-standard, questionable and more complicated applications. The peer review committee will be chaired by the County Planner, who will act as a tie breaker, among three professional staff planners from other Leeds and Grenville municipalities as well as the Planning and Development Director from TLTI. The TLTI Planning function is not managed by a certified Professional Planner.

TIARA is pleased with this development. It has the potential of becoming a really good model for sound land use planning generally. As far as we can tell, it is not being done anywhere else in the province. Kudos to the County!

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