

Teddington Park Residents Association Inc.

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December 5, 2017

Mayor John Tory and Members of Council
Toronto City Hall, 100 Queen Street West
Toronto, ON M5V 2N2

Attention: Ms. Marilyn Toft, Council Secretariat
clerk@toronto.ca

Dear Mayor Tory and Members of City Council

PG24.8 Zoning By-law and Zoning By-law Amendments to Permit Short-Term Rentals City Council Meeting beginning December 5, 2017

Teddington Park Residents Association Inc. (TPRA) is writing to oppose Planning Staff recommendation seeking Council to adopt a stand-alone Zoning By-Law with further amendments to the general provisions of the in force Zoning by-laws and enacted Zoning By-law (under appeal) to allow for short-term rentals throughout the neighbourhoods and mixed use areas throughout the City.

The reasons are:

Under the inforce City of Toronto Zoning By-law 438-86:

- The residential districts allow for secondary suites, modest intensification to allow affordable rental housing across many of the City's neighbourhoods. Zoning By-law 493-2000 amended the in force general zoning by-laws to accommodate this use.
- R1 residential districts do not permit converted houses and these converted houses where they do exist in the R1 zone generally are legal but do not conform to the zoning by-laws. The legal non-conforming designation in residential districts typical involve properties that have more rights than the zoning by-law permits.
- Also, bed and breakfast establishments are not permitted in the R1 zones.
- However, residential districts allow for the keeping of roomers and boarders and this use is qualified (q4) as follows:
 4. The keeping of roomers and boarders is a permitted use, provided: (425-93)

(i) the numbers are limited to not more than two roomers or boarders in the case of:
A. a *detached house* in an R1 or R1S district; or
B. a *semi-detached house*, or any *dwelling unit* in a *duplex* or *semi-detached duplex* in an R1S district; or

(ii) the numbers are limited to not more than three roomers or boarders in the case of a *detached house*, a *semi-detached house*, a *row house*, or any *dwelling unit* in a *duplex*, a *semi-detached duplex*, a *triplex*, a *semi-detached triplex*, a *rowplex* or an *apartment building*, in an R2, R3, R4 or R4A district.

- A private home day care is allowed as of right.
- Home occupation is permitted with qualifications. Home/work use is a permitted residential use accessory to a dwelling unit, if the qualifications are satisfied under q20.
- The staff report does not consider the other uses permitted or considered the collective uses or the potential concentrations or clustering of the uses that may impact the stability of our neighbourhoods.

Under the enacted ZBL569-2013 (under appeal):

- RD zones permit the following uses with conditions: Day Nursery, Group Home, Home Occupation, Municipal Shelter, Private Home Day Care, Secondary Suite, and Seniors Community House.
- The specific use regulations for secondary suites incorporate Zoning By-law 493-2000, however not all the restrictions, such as maintaining the house form, were carried over into the new zoning.
- The issues are similar to the ones under the inforce zoning – hotel type use, bed and breakfast, lodgers and boarders are not permitted uses

The definition of Short-term Rental is problematic:

- The 28-day stay to differentiate the use as short-term rental is problematic and not grounded in planning justification but rather a definition that can be wedged between boarders and lodgers and bed and breakfast provisions.
- Have staff considered the impacts of living next to or within dwelling units that revolve around a different set of lives every 28 days have not been considered? How about parking issues?

- Would rentals with a 30-days limit then make the use long-term and thereby act to work around the prohibition of secondary suites meant to be used for long term rentals augmenting affordability within neighbourhoods?

The Stand Alone By-law and the Amendments to the General of Inforce Zoning By-laws:

- The Stand Alone By-law creates definitions that will be in conflict with the definitions currently used in the Zoning By-laws. For instance, principal use is not a term used in ZBL569-2013 but is found in other in force by-laws. How this is being resolved creates a circularity in the amendments.
- Amendment No. 21 introduces a “new” Specific Use Section 150.13 in Attachment 2 which states:

Zoning By-law No. 569-2013, as amended, is further amended by adding a new Section 150.13, Short-term Rentals so that it reads:

150.13 Short-term Rentals

150.13.1 General

(1) Application of this Section

The regulations in Section 150.13 apply to short-term rentals.

150.13.20 Use Requirements

150.13.20.1 General

(1) Short-term Rental – Use Restriction

A short-term rental is permitted in a dwelling unit, ~~secondary suite~~ or bed-sitting room, if:

- (A) in the case of a bed-sitting room, no more than three may be permitted in any one dwelling unit; and,
- (B) in the case of a principal residence in the R zone, no ~~more than~~ one secondary suite may be used for a short-term rental; and,
- (C) it is not in a vehicle.

- This amendment would need to be amended, as corrected above, to exclude secondary suite from being used as a short term rental.
- Amendment Nos. 1 through to 20 must comply with Amendment No. 21, extracted above. Of note the 28-day length stipulation is not part of this specific use regulation in the zoning by-law.
- Amendment No. 22 and Amendment No. 23 in Attachment 2 states:

Amendment No. 22: Former City of Toronto Zoning By-law No. 438-86, as amended, is further amended by adding to the chart in Section 6, Sub-section 1, Regulation (f)(a)(i) after the term "triplex", so that it reads:

	Acc	R1	R1S	R2	R3	R4	R4A
Short-term Rental	*	q-24	q-24	q-24	q-24	q-24	q-24

Amendment No. 23: Former City of Toronto By-law 438-86, as amended, is further amended by adding to Section 6, Sub-section 2, a new qualification 24 after qualification 23, so that it reads:

24. a short-term rental is a permitted use if it complies with By-law XXXX- 2017.

What is the planning justification for adding the amendment to the primary “Residential Uses – Housing Comprising Dwelling Units” rather than “Shared Housing Containing Dwelling Rooms” or “Associated / Accessory Residential Uses” under the permitted uses in Section 6?

Additionally the new Specific Use Section 150.13 specifically excludes criteria that define the short-term rental as noted in the staff report but Amendment No. 23 references By-law xxxx – 2017, presumably the Stand Alone Zoning By-law, redefining short-term rental with new definitions for use and including a lease cycle of 28 days.

The Stand Alone By-law (Attachment 1) states this By-law applies to all lands in the city of Toronto and acts as an override to the changes proposed or not proposed to the inforce Zoning By-laws. The statements include:

3. Despite defined terms in the former general zoning by-laws, for the purposes of this by-law the defined terms have the following meaning [...]; and
4. Despite any other provision in any former general zoning by-law, a short-term rental is a permitted use if: [...]

Is the Stand Alone By-law a Municipal By-law under the City of Toronto Act? Does this circularity create an absurdity, in that it would render any changes in the General Zoning By-laws meaningless?

Business Application:

The Federal Government classifies our homes as personal use for tax purposes. At what stage do you change the use of our homes such that they become “business” units – contrary to the intent of the Planning Act. Is the City operating with its boundaries of authority? What is intent of the powers of the Business License granted the City?

By way of analogy, the City regulates Garage Sales in residential areas and it states that property owners may have 2 garage sales each year and can only sell personal property that has been used. Contrast this use and frequency with the frequency proposed in short-term rentals.

The business license and taxing powers are beyond the land use decision and it is the land use decision, subject to the legislated requirements of the Planning that need to be met in this analysis.

Notice and Public Process:

The Notice is defective with errors noted in two of the inforce Zoning By-laws without Re-Notice. But given the analysis of the circularity of the amendments under the general provisions and the Stand Alone Zoning By-law, the issue may be moot.

TPRA received the City's Notice of the proposed amendments. Upon receiving Notice, I made a two requests for the proposed zoning amendments and supporting staff report.

The response I received said,

As it states in the notice you are welcome to come to our office to review the document. As you are well aware, we are not in a position to provide you with an electronic copy of the draft by-law until the material is available for the committee members a week before the meeting.

The above process for amending zoning by-laws couldn't be more wrong. The Planning Process under the City's Official Plan Section 5.5.1 states:

OP 5.5.1: A fair, open and accessible public process for amending, implementing and reviewing this Plan (note: implementing the Plan includes Zoning By-laws) will be achieved by:

(c) providing adequate and various opportunities for those affected by planning decisions to be informed and contribute to planning processes including:

ii) holding at least one community meeting in the affected area, in addition to the minimum statutory meeting requirements of the Planning Act, for [...], Zoning By-law amendment prior to approval;

iii) ensuring that information and materials submitted to the City as part of an application during the course of its processing are made available to the public (city-initiated amendments should not be subjected to lower standards);

iv) [...] endeavouring to make draft Zoning By-law amendments available to the public for review at least 10 days prior to statutory public meetings [...]

In the interpretative text of the City's Official Plan and supported by legislation, it is Council that determines the consultation process as to whether one or more subsequent meetings will be required. OP 5.5.1 (c) (iii) can be expanded to reflect the complexity of the amendments. The legislated requirements must satisfy the intents of the Planning Act and not ride on the coattails of a business license / hotel tax theme that draws from a different audience..

In Force Zoning By-laws:

The inforce zoning by-laws for the amendments to accommodate for the group homes across the City considered the following:

- . City of Toronto Zoning By-law No. 569-2013; former City of Toronto By-law 438-86; former City of North York By-law 7625; former City of York By-law 1-83; former Borough of East York By-laws 6752 and 1916; former City of Etobicoke Zoning Code; and, former City of Scarborough Zoning By-laws 10076, 12797, 8786, 9350, 9174, 9396, 8978, 9364, 9508, 10048, 9676, 10827, 9089, 9276, 12466, 14402, 12181, 17677, 11883, 9366, 9812, 15907, 10010, 16762, 10717, 12360, 950-2005, 9511, 10327, 9510

Yet, the former inforce zoning by-laws have expanded in this amendment for short-term rentals. Is there a zoning by-law amendment that amended the list?

Financial Impact:

There should be a conscious effort to consider the “financial impact” of every report and amendment including the opportunity cost. What work was set aside in order to produce this report. Also a cost / benefit assessment from a business perspective but equally important is an assessment from a public interest and the greater good perspective.

Summary:

TPRA asks that Council not adopt the Stand Alone By-law (Attachment 1) or the amendments to the general provisions of the in force Zoning By-laws. The objective of the amendments are unclear.

The definition of short-term rentals have a potential of creating big government – hard to apply, hard to enforce consistently, and the goals of the scheme not justified.

The report when read in its entirety is unbalanced. The report and the proposed amendments achieve a predetermined outcome. The analysis revealed through a singular lens where the expected planning justification is lacking and is reinforced by the circularity of the proposed amendments. I ask the recommended amendments not be adopted and should there be changes to the recommendation I request a Re-Notice and have the matter returned to Planning and Growth Management Committee.

Respectfully,

Eileen Denny

Eileen Denny, President
Teddington Park Residents Association Inc.

cc. TPRA Board Secretary