



INFORMATION ONLY COUNCIL REPORT

To: Mayor and Council

Date: May 9, 2023

From: Paul Gipps, CAO

File No: P 23-06

Subject: **Short Term Accommodation - 1 Year Review**

Report Prepared by: Kandice Brzezynski, Senior Business Licensing and Building Official

EXECUTIVE SUMMARY

This report outlines the progress, success, and challenges City staff have encountered over the first full year of implementing the short-term accommodation (STA) program. This report will illustrate where we are currently with the program by providing statistics of the number of accommodations versus the number of compliance files. It will illustrate the areas staff feel are challenging and provide an anticipated impact on the long-term rental stock.

STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity

Foster Safety and Well-Being

BACKGROUND

The STA program was adopted on July 13, 2021. Through public engagement and Council direction, this program was developed and incorporated the following guiding principles:

- Mitigate negative neighbourhood impacts;
- Protect long term rentals;
- Recognize importance of short-term rentals for tourism; and
- Comprehensive licensing, compliance, and enforcement.

These guiding principles were incorporated into the program to ensure the impact of STAs to residents and City enforcement was minimal, while creating an opportunity to support tourism.

The STA regulations are incorporated into the Business Licensing and Regulation Bylaw 0087 and the Zoning Bylaw 0265. These regulations include:

- Valid business license required,
- STAs must only be operated by a principal resident,

- STAs shall only be rented for periods of less than one month,
- STAs are only permitted in single family dwellings, secondary suites, or carriage houses,
- STAs are permitted in A1, RU1, RU2, RU3, RU4, RU5, R1, R1L and CD1(E) zones,
- The operator must prove that they are the principal resident,
- Local contacts must be established for each property for emergencies or when the operator is away,
- Operators are permitted to be away from the principal residence for 14 days within in a single month to a maximum of 30 days per year,
- Enforcement follows the following procedure:
 - 1st letter
 - 2nd letter
 - Fines

As per Council Resolution No. C272/22 on October 4th, 2022, a comprehensive review was requested of the current short term accommodation program which is outlined below.

DISCUSSION

Business Licensing Process

Short-term accommodation applications are submitted and processed by Development Services staff at the front counter. The applications are reviewed for completeness, initial Zoning Bylaw compliance, and payment. License inspectors then complete a thorough review of the application for further compliance and approval. Referrals are sent to the Building and Fire Departments for comment as needed. Staff are currently only completing inspections on applications that have known life safety concerns (for example, no upgraded smoke alarms, illegal second kitchens). License inspectors also review any enforcement action that may have taken place and ensure that all enforcement concerns are concluded, including any fines to be paid.

Currently, the City has issued 100 STA licenses as of April 25th, 2023. Approximately 43 of these STA's are operating out of secondary suites, 5 are operating in carriage houses and the remainder are operating out of single-family dwellings. Only 2 applications have been rejected for failing to meet parking requirements and principal residency.

Enforcement and Compliance

Enforcement and compliance fall under the responsibility of the Licensing Officer and the Bylaw Enforcement and Compliance Department. The Licensing Officer is responsible for review of all STA applications and communication with our third part contractor Harmari. Harmari manages advertised listings within the City of West Kelowna for all STAs and sends enforcement letters to properties identified as being non-compliant. The Bylaw and Enforcement Department investigates any complaints received from the public regarding STAs, offers support to our Licensing Officer and delivers fines when required.

Business Licensing Officer Compliance

The completeness of the applications being submitted can vary. Most applications require thorough review and correspondence between the Licensing Officer and the client. Fire safety plans often lack important details, the self-evaluation safety audit forms are signed but clients do not have the minimum life safety measures as stated on the form they sign, and illegal second kitchens are still being found within client's homes. These contribute to the inefficiency of the review process for the Licensing Officer, however once this is complete and the license is issued, there is little to no further investigation required.

Harmari Compliance

Harmari reports that there are currently 782 active listings within our jurisdiction. This number represents all listing platforms (Air BnB, VRBO, bookings.com, + others). Properties will advertise across many different platforms to increase their presence and therefore it can be assumed that a more accurate number of listings is relatable to 260 (2-3 listings per property). Based upon the number of legalized STAs it is estimated to be 25-35% compliance. The City is actively receiving new STA applications and have been continuing compliance/enforcement efforts. To date, 192 1st enforcement letters and 74 2nd enforcement letters have been sent. This has resulted in 12 fines and 70 deactivated listings. The remainder of these compliance files have either licensed or are still under review.

Bylaw Department Compliance

Overall, the bylaw enforcement process related to STAs has been extremely successful. In 2022, the Bylaw and Enforcement Department only received 13 complaints from the public – 5 for business licensing investigations and 8 for Good Neighbour Bylaw investigations. Only 12 files have been sent to the Bylaw Enforcement and Compliance Department, from business licensing, for further investigation/enforcement. With the attention being put into the application from the Licensing Officer and Harmari compliance investigations, there has been no increase in workload for the Bylaw and Enforcement Department.

Bylaw Review

Business Licensing and Regulation Bylaw

The Business Licensing and Regulation Bylaw outlines the requirements for STAs in Section 12. Overall, these regulations are easily enforced with some exceptions. Some areas that staff continually face challenges with are proof of principle residency (12.2), self-evaluation safety audit (12.2.(f)), and the enforcement of number of days permitted to be absent from a property (12.4).

Proof of Principal Residency

The types of documentation accepted, according to the Business Licensing and Regulation Bylaw, include provincial homeowners grant, driver's license, vehicle

registration, utility bills, tax forms, insurance forms, government records or other documents satisfactory to the License Inspector. It is noted that clients can change addresses on certain documents with ease and has therefore been found that some of these documents do not prove principal residency. When inspections are conducted, it is evident that some clients appear to not live in the house, as there are no personal items such as clothing, pictures and sometimes there are minimal furniture items.

Additional refinements to the program should be considered to ensure principal residency.

Permitted Number of Days Absent

It has been difficult to monitor whether principal residents are complying with the regulation of only being absent from their properties for no more than 14 days in any one month to a maximum of no more than 30 days within a calendar year. However, with the minimal number of complaints received, being on-site may not be as important as originally expected. Alternatively, given the potential impacts of STA's on the City's long term rental housing stock, repealing of this section of the bylaw may also be considered.

Self-evaluation Safety Audit

Although every application has the self-evaluation safety audit form complete, it is often found that when inspections are conducted, the required work is not completed. Approximately 80% of the applications requiring an inspection show smoke alarms are inadequate and require upgrading. It has been found that building permit records are a more accurate means of determining whether a home requires inspection and possible upgrade. Based on this, this section of the bylaw may require additional review.

Zoning Bylaw

Permitted Uses in Zones A1, RU1, RU2, RU3, RU4, RU5, R1, R1L and CD1(E)

The Zoning Bylaw designates where STAs can operate according to a property's zone and there continues to be interest in STA's in other zones. Staff have also received a number of inquiries regarding permitting STAs in R2 and RC3 Zones.

Further expansion of the STA program to additional zones should be considerate of impacts to neighbouring residents resulting from off-site parking (due to reduced minimum parcel frontage requirements) as well as impacts to the existing/future rental stock and vacancy rates. The results of the City's Housing Strategy (underway) should also be reviewed prior to considering expansion of the STA program.

Agricultural Operators

Currently the *Zoning Bylaw* excludes all properties that are not residential however, there are a number of enforcement files from A1 zoned properties (wineries) who operate a rental accommodation as part of their operations. Staff have been meeting with these wineries to determine how they can comply with the regulations. The difficulty with these winery accommodations is that they do not have a principal resident and therefore generally cannot comply with the Zoning Bylaw. While there are options to make land use applications to potentially be considered by Council, many of the operators are interested

in longer term improvements to promote agri-tourism. There appears to be merit in drafting regulations to include commercial winery operations in the STA regulations as the winery operators are generally located on the property, similar to other operators.

STA's vs. Bed and Breakfasts

Differentiating between STAs and Bed and Breakfasts continues to be of concern as our current regulations do not clearly articulate the difference. There are concerns that applicants have trended away from the more stringent STA regulations and applying under the Bed and Breakfast licensing as the cost for the application is substantially less (\$750.00 vs \$135.00). Per previous Council direction, staff have drafted a new definition of Bed and Breakfast in the Bulletin to aid in the distinction between the two; however, additional Zoning Bylaw amendments are required be made to illustrate the differences more clearly. Introducing a new definition of Bed and Breakfast into the Zoning Bylaw would ensure clarity in implementation and licensing.

Fees and Charges Bylaw

The Fees and Charges Bylaw includes the fee schedule for all Business Licenses in Schedule 16. The Bylaw includes two fees for STAs an initial \$250.00 application fee and a \$500.00 license fee. This fee structure was approved by Council in July 2021 however, it is different from other license fees. As part of the STA review, Council does have the ability to direct staff to explore options to make these fees more consistent with the other Business Licensing fees, noting that the fees are currently used to recover costs for 3rd party monitoring (Harmari).

Impact To Long-Term Rental Stock

In 2019, the Provincial government mandated that a Housing Needs Assessment be complete every 5 years. The City has recently completed our 1st Housing Needs Assessment and therefore statistical information is not yet complete to determine the true effects of STAs on the long-term rental stock. However, it is evident that short term accommodations do contribute to lack of available housing for residents. According to the Colliers Housing Needs Report, the vacancy rate of West Kelowna was 1.7%¹ which illustrates that there are not enough accommodations available for the needs of the community. The Colliers report states that “with a significant proportion of the renter household population living in secondary suites and the secondary rental market, short term rentals may remove housing from the general rental housing pool and reduce the overall supply of available rental housing in the City of West Kelowna”. Further, the average daily rate of short-term accommodations in the City of West Kelowna is approximately \$285. The revenue achievable through this operation would exceed the rental rates achievable in a dedicated long term rental housing unit. The Colliers 2022 report explains this with the following numbers:

¹ Colliers Strategy & Consulting and Urban Matters, Housing Needs Assessment, City of West Kelowna, page 62, 2020.

*Assuming revenue achievable at \$285 a night for 69% annual occupancy, revenue before taxes and fees could general as much as \$5,981 monthly, substantially more than the average rent reported in the City of West Kelowna = \$1571 – average rent for **all** unit types (1 bdrm, 2 bdrm, 3 bdrm)*

From a financial perspective, it is evident that STAs are an enticing business for homeowners that will only continue to grow especially in a city that's marketed as a tourist destination.

The City of West Kelowna has issued 43 STAs in secondary suites to date. It is expected that 2023 numbers will surpass the 2022 numbers and therefore illustrate a reduction in the available long-term rentals. Even with no complete comparison statistics, it is evident that STAs take away from the available and affordable long term rental market. Council may want to consider where STAs are permitted within the City, the overall number of licenses permitted, and how to balance the needs of the long-term rental stock once the City's Housing Strategy is complete. Council may also wish to review the impacts of rental of entire homes on the long-term rental stock within the City.

CONCLUSION

The implementation of the STA program has proven to be successful despite having some areas for refinement. The guiding principles used to create the program have been adhered to, but the effects on the long-term rental market should be monitored annually to ensure there is not a significant impact to the long-term rental market. Compliance and enforcement efforts has shown voluntary action by homeowners and our regulations seem to be achievable by most residents. Staff welcome any input from Council regarding any feedback that has been provided from the community or STA operators.

COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
October 4, 2022	THAT Council direct staff to provide a comprehensive update on the status of Short Term Accommodations regulated under the Zoning Bylaw No. 0265	C272/22

REVIEWED BY

Brent Magnan, Director of Development Approvals

Corinne Boback, Legislative Services Manager / Corporate Officer

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes No

Attachments:

1. STA Statistics