



COUNCIL REPORT WITH DECISION POINTS

To: Paul Gipps, CAO

Date: August 25, 2020

From: Hailey Rilkoff, Planner II

File No: P 20-16

Subject: **P 20-16, Short Term Rentals**

EXECUTIVE SUMMARY

West Kelowna is a growing tourism destination. Short term rental accommodations are a growing trend and there are a number of opportunities and challenges that surround this type of use, particularly in predominantly residential areas. This report outlines the current policy and regulations, short term rental listing numbers, and bylaw enforcement related to short term rentals in West Kelowna. A review of the regional approaches taken to regulating short term rentals is outlined and decision points for Council's consideration are presented.

STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity – Policies and advocacy to enhance economic prosperity; Continued growth in tourism.

BACKGROUND

Short term rentals, sometimes called vacation rentals, are a form of tourism accommodation, typically defined as renting a dwelling, or any part of a dwelling, for a period of less than 30 days. Long term rentals of over 30 days are regulated, in most cases, by the *Residential Tenancy Act*. Some short term rental platforms are often described as being a part of the “sharing economy”, which also includes other activities such as ride-sharing or co-working spaces. There are over 50 online platforms for short term rental listings. The company, AirBnB, has grown to be one of the most recognizable platforms, and is often use as a generic term for, and often used interchangeably with, the term short term rentals.

On September 5, 2017, Council received correspondence from the Greater Westside Board of Trade regarding unregulated home sharing and short term rentals. At that time, Council discussed the possibility of adding short term rentals to the list of strategic priorities however no resolution was passed at the meeting.

On September 17, 2019, Council received a delegation with a supporting information package (*Attachment 1*) in regards to short term rentals and Air BnB's in West Kelowna. Council directed staff to bring a report back within 6 months, however due to staff resources and the impacts of COVID-19 on priorities, this report was delayed. While the City's Zoning Bylaw currently defines this use with the term "vacation rental", the term "short term rental (STR)" will be used throughout this report.

Policy Overview

Zoning Bylaw No. 0154

The Zoning Bylaw defines "vacation rental" as "the rental of all or part of a dwelling for periods of less than 30 days". Section 3.3.1(b) prohibits vacation rentals in every zone. Bed and breakfasts, agri-tourism accommodations and the use of resort apartment and resort townhouse are separately defined or regulated in the Zoning Bylaw.

Section 3.17 regulates bed and breakfasts, which are only permitted in single detached dwellings and must be operated by the dwellings occupant. Bed and breakfasts are not permitted on parcels with secondary suites or carriage houses. Zones which permit bed and breakfasts as secondary uses include Agricultural (A1); Rural Residential (RU1-RU5), and Residential (R1 & R1L).

Section 3.20 regulates agri-tourism accommodations, which are only permitted in single detached dwellings and all or part of the parcel must be classified as a farm. Resort apartment or resort townhouse uses are permitted in the Tourist and Resort Commercial Zone and some Comprehensive Development (CD) zones which allow these units to be occupied for periods of less than 30 days.

Excerpts from the Zoning Bylaw as referenced above are provided in *Attachment 2*.

Economic Development Plan

West Kelowna is a managing partner of the Westside tourism initiative (between the City of West Kelowna and Westbank First Nation) and strengthening the City's role as a Tourism Destination Manager and Developer is one of West Kelowna's Economic Development Strategic Focus Areas¹. Efforts are focused on increasing visitor activities, supporting business growth and building tourism capacity within the Westside area.

DISCUSSION

Short Term Rental Opportunities and Challenges

There are a number of opportunities that short term rentals can bring to a community. They are a part of the tourism industry as they create increased accommodation options for visitors to an area. Short term rentals, similar to rental income from secondary suites, are often viewed as a "mortgage helper" for home owners. For landlords who rent

¹ West Kelowna Economic Development Plan: Out approach to economic growth (2017)

to students, short term rentals can provide income during the summer months when students leave a community to return home, travel or seek work.

However, there are also a number of challenges short term rentals can bring to a community, particularly if they are unregulated. Issues such as noise and parking can negatively impact residential neighbourhoods and the conversion of long-term rentals into short term rentals contributes to challenges with an already low rental vacancy rate. Unregulated short term rentals are not meeting the same health and safety standards or inspections as traditional accommodation providers nor the same business licensing process. In addition, potential revenue to contribute to tourism marketing and affordable housing programs or projects from an accommodation tax is lost².

Current Accommodation Inventory

As of July 2020, there were approximately 378 short term rental units currently operating within the City of West Kelowna and 460 short term rental listings (as operators can list the same unit on multiple platforms)³. This has decreased since January of 2020 when there were 420 unique rental units and 500 listings (Attachment 3). This decrease could be attributed to a number of factors, including COVID-19. Most short term rental listings in West Kelowna are entire homes (82%) and single detached dwellings (76%). In comparison, there are 471 traditional accommodation units in West Kelowna which includes hotel/motel rooms (158), resort rooms (148) and bed and breakfasts (66)⁴.

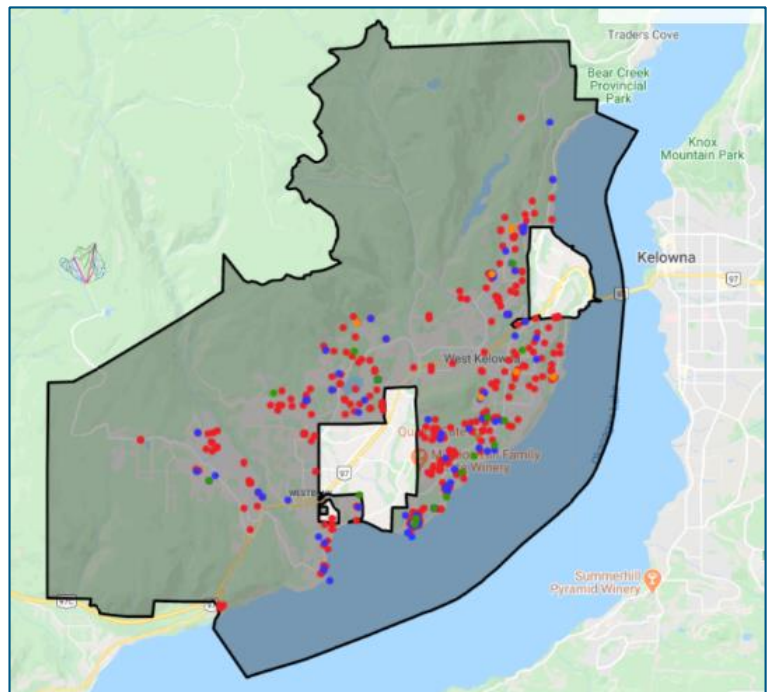


Figure 1 - Short Term Rental Listings in West Kelowna as of July 2020

Bylaw Enforcement

Council's Bylaw Enforcement Policy (Attachment 4) directs bylaw enforcement be conducted on a complaint basis and that discretion on a case-by-case basis to evaluate contraventions will be used. In 2018 at Council's direction, the City's Bylaw Department proactively enforced non-permitted short term rentals and were able to initiate an additional 25 proactive investigations over and above the 37 public complaints regarding

² Online Accommodation Platform (OAP) Municipal and Regional District Tax (MRDT) of up to 3% in designated accommodation areas.

³ STR data provided by Host Compliance, a third party monitoring company which is currently contracted by 10 BC municipalities to assist with STR monitoring and/or enforcement

⁴ Traditional accommodation data provided by the City's Economic Development and Tourism Department.

short term rentals. In 2019, the Bylaw Department's proactive priority of short term rentals was discontinued in favour of a more active community safety role in Westbank Centre.

Complaints regarding bylaw infractions from short term rentals have been steadily increasing (Figure 2), in 2020 to date 34 properties have short term rentals bylaw enforcement files, some of which have resulted from multiple complaints.

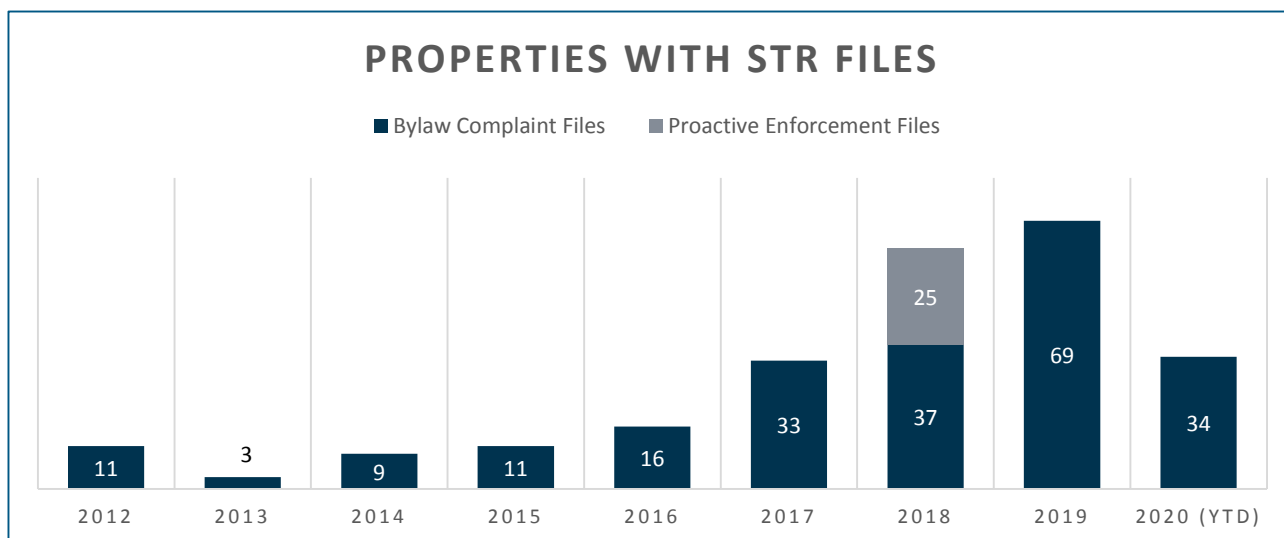


Figure 2 - Number of Properties with STR Bylaw Enforcement Files

Bylaw infractions are continuing and it is reasonable to expect them to continue to increase as the popularity of short term rentals expands. Short term rentals have proven to be challenging, time consuming investigations that create a strain on the current department's capacity. The City's Bylaw Department's current capacity to enforce bylaw infractions does not facilitate proactive enforcement.

Regional Approach

Many municipalities within the Okanagan region have implemented various regulations and licenses which address short term rentals. A Regional Planning Lab, led by the Regional District of Central Okanagan has identified the four Regional Short Term Rental Goals⁵:

1. *Preserve long term rental stock*
2. *Recognize vacation rentals are important to the Central Okanagan*
3. *Explore compliance monitoring partnerships*
4. *Implement consistent safety standards through business licensing*

The following is a brief breakdown of the various approaches to regulating short term rentals through licensing that are being taken regionally.

City of Kelowna⁶

- Began considering short term rental regulations in 2016

⁵ https://www.regionaldistrict.com/media/257325/Regional_Planning_2019_Winter_Bulletin.pdf

⁶ <https://www.kelowna.ca/business-services/permits-licences/short-term-rentals>

- Guiding Principles identified and extensive community engagement undertaken
- Short Term Rental Accommodation Business Licence and Regulation Bylaw adopted April 2019
- Short term rentals limited to no more than 6 persons, not permitted in secondary suites or carriage houses
- Business licence fees for short term rentals (\$345 if within a principal residence; \$750 if a non-principal residence)
- Approximately 600 units licensed within the first year of regulations
- Contracted a third party compliance monitor (Host Compliance) to assist with monitoring

Lake Country⁷

- Began considering short term rentals in 2015
- Zoning Bylaw amendments regarding short term rentals introduced in 2018
- Short term rentals not permitted in carriage houses; Strata properties would require a Temporary Use Permit for a short term rental
- Business licence fees for short term rentals (\$100 with no fee for the first year)
- Estimated only 10% of listed short term rentals have been licenced

Penticton⁸

- Adopted short term rental regulations in 2010
- Updated short term rental regulations in 2017
- Business licence fees for short term rentals
- Some types of short term rental licences require public notification
- Estimate between 400-570 short term rentals during peak tourism season

Vernon⁹

- Began considering short term rental regulations in 2019
- Community engagement this spring (2020) to identify issues, concerns, impacts, desires, and needs
- Guiding Principles to be identified and brought to Council for consideration
- Subsequently, draft regulations will be considered

Table 1 - Summary of Regional Approaches to Short Term Rental Regulations

Local Government	Business Licence Fee	Maximum Occupancy	Permitted in Secondary Suites	Permitted in Carriage Houses	Third Party Monitoring Contracted
Kelowna	\$345 - \$750	2-3 sleeping units (6 occupants)	No	No	Yes

⁷ <https://www.lakecountry.bc.ca/modules/news/index.aspx?newsId=f3952763-8784-4e01-8be3-cc0d46bc70c2>

⁸ <https://www.penticton.ca/business-building/business-licences/short-term-rentals>

⁹ <https://www.vernon.ca/business/business-licences-permits/short-term-rental-regulations>

Lake Country	\$100	4 sleeping units	No	Yes	No
Penticton	\$180 - \$400	6 occupants	Yes	Yes	Yes
Vernon	Short term rental regulations under development				

Decision Points for Council's Consideration

At this time, staff are seeking Council's preliminary feedback on the following eight decision points to help guide the City's approach to short term rentals in the community. Council could choose to continue to prohibit short term rentals or choose to begin the development of a regulation program for short term rentals. Each of these decision points have a number of options for moving forward, based on Council's direction. Figure 3 below (and *Attachment 5*) provides an overview of the decision point options.

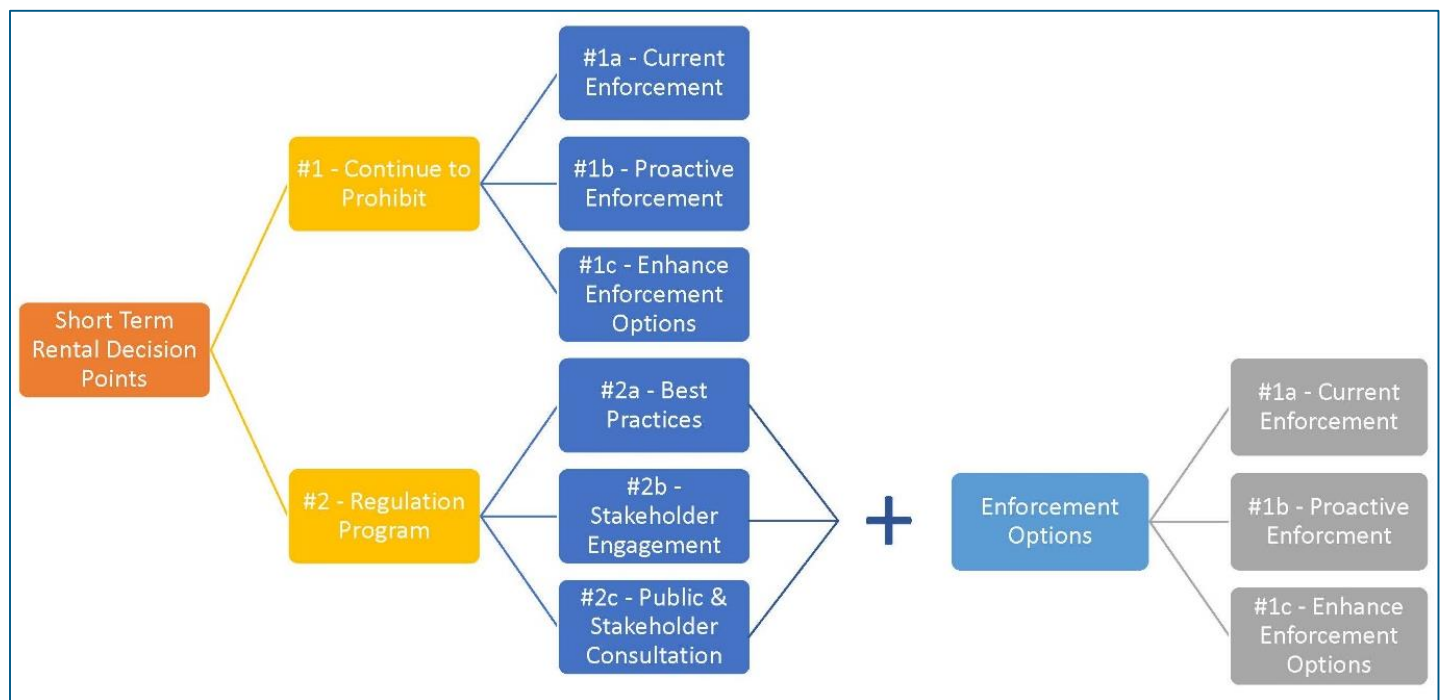


Figure 3 - Decision Points for Short Term Rentals

Decision Point #1: Does Council wish to continue to prohibit short term rentals in West Kelowna?

Council has the ability to prohibit a land use in a specified zone or within all zones in the community. If Council wishes to continue to prohibit short term rentals, staff believe there are three potential options for bylaw enforcement that would have varying degrees of impact on the Bylaw Enforcement Department.

Decision Point #1(a): Does Council wish to continue with complaint based enforcement?

Complaint based enforcement, which is currently the approach to addressing short term rentals operating within the City, first requires a complaint to be made from

the public regarding an operating short term rental. Bylaw then follows the following graduating levels of enforcement:

- ✓ Voluntary Compliance - Notification letter to cease non-compliant activity
- ✓ Issuance of a Bylaw Offence Notice Ticket – May be issued daily and can be mailed. \$500 for Prohibited Use.
- ✓ Issuance of a Municipal Ticket – May be issued daily but requires personal service (cannot be mailed). \$500 for Prohibited Use (Provincial legislation sets the maximum penalty at \$1,000).
- ✓ Offence Act Prosecution – Requires issuance of a court summons. Fines can be issued up to a maximum of \$10,000
- ✓ Injunction – Council may pass a resolution to proceed with an injunction application in BC Supreme Court

If Council wishes to maintain the current enforcement process, there would be no additional financial implications or additional staff resources required.

Decision Point #1(b): Does Council wish to proactively enforce prohibited short term rentals?

Proactive enforcement would require additional resources within the Bylaw Enforcement Department. The challenges with enforcement would still be present however more files would be actioned than with the complaint based enforcement. In 2018, proactive enforcement files made up 40% of the total number of bylaw enforcement files related to short term rentals. This option would have financial implications in that there may be increased court and legal fees for the additional proactive cases. Additional staff resources would be required to engage in proactive enforcement of short term rentals in addition to the current bylaw priorities.

Decision Point #1(c): Does Council wish to enhance enforcement options?

There is a potential to increase the Municipal Ticket fine for a prohibited use from \$500 to \$1,000, which is the maximum under Provincial legislation. This increased fine could apply to all Municipal Tickets for all prohibited uses, not just short term rentals or a new offence could be added specific to short term rentals. Additional offences to the Business Licencing and Regulation Bylaw could also be considered such as offences to advertise, solicit or promote without a valid business licence. This option would have financial implications by increasing the Municipal Ticket Fine amount however no additional staff resources would be required beyond preparing the required bylaw amendments.

Decision Point #2: Does Council wish to regulate short term rentals?

Council has the ability to allow a land use within one zone or all zones with or without certain restrictions. If Council wishes to regulate short term rentals, there are a number of options staff could consider in the development of proposed regulations or bylaw amendments, and a variety of factors including desired timeline, desired level of stakeholder and public engagement, and staff resources which would influence the development of a project work plan.

The development of guiding principles for the process of creating a framework to regulate short term rentals should reflect Council's priorities in addressing the various opportunities and challenges that short term rentals present. For example, the City of Kelowna's guiding principles that were developed after an initial public opinion survey were:

- *Ensure short-term rental accommodations do not impact the long-term rental housing supply in a negative way.*
- *Ensure short-term rental accommodations are good neighbours.*
- *Ensure equity among short-term accommodation providers.*

If staff were directed to develop a work plan to develop a regulation program for short term rentals, the following would be considered as a part of this project. In terms of regulating the use of short term rentals, similar regulations that apply to bed and breakfasts could be developed to address short term rentals through zoning and business licencing. These regulations could include further definition of the use of short term rentals, restrictions on the location and unit types permitted (ie. within a principle residence, secondary suite and/or carriage house), outline parking requirements, and establish occupant limits.

Types of licences could be established based on different sizes or operations, restrictions could be placed on the number of licenses in any one area of the City. The cost of licenses for short term rentals could be developed through cost recovery approach for licencing, monitoring and/or enforcement.

If short term rentals are regulated a program to achieve compliance and enforcement should also be considered. This could focus on voluntary compliance through education, awareness and notification or could prioritize proactive enforcement and may involve third-party monitoring. Decision points #1a - #1c can also be applied if Council wishes to regulate short term rentals to provide direction on the desired level of bylaw enforcement to accompany a short term rental regulation program.

There are a number of ways staff could prepare a proposed regulation program for short term rentals for Council to consider, with varying degrees of engagement, timelines and required staff resources. Each of the decision point options outlined below would require staff resources to develop the regulation program for short term rentals which could include changes to all or any of the following Bylaws:

- Zoning Bylaw No. 0154
- Business Licensing and Regulations Bylaw No. 0087
- Fees and Charges Bylaw No. 0028
- Bylaw Dispute Adjudication Bylaw No. 0093
- Municipal Ticket Information Utilization Bylaw No. 0095

The financial implications of regulating short term rentals could include increased business license revenues, additional funding through taxation for tourism and affordable housing, increased staff resources required for the development of the regulation program, costs associated with monitoring of short term rentals, increased staff resources required for the management of a short term rental regulation program and/or an education and awareness campaign.

Decision Point #2(a): Does Council wish to rely on best practices for short term rental regulation program development?

Regulation development based on best practices learned from other municipalities would be able to be accomplished with existing staff resources, however the timeline could be approximately six months based on current staff workloads and priorities such as the #OurWK visioning project. Council should provide staff with guiding principles for the development of a short term rental program and regulations.

Focusing on the local regional approaches taken and an internal referral to City departments, staff would prepare draft regulations for Council's consideration. The initial consideration report would outline specific financial implications for the proposed regulation program. After initial consideration, these proposed regulations and bylaw amendments would be scheduled for a public hearing, and following third reading could be adopted and implemented.

Decision Point #2(b) – Does Council wish to engage stakeholders prior to short term rental regulation program development?

Regulation development with some stakeholder engagement early on would be able to be accomplished with existing staff resources, however the timeline could be up to one year. Additional staff resources could reduce this timeline if Council desired this approach to be used with regulations developed within a shorter period of time. Council should provide staff with guiding principles for the development of a short term rental program and regulations.

This proposed process would begin with a detailed review of existing bylaws and policies, in depth comparisons of regional approaches to short term rental regulations and identified enforcement issues. Based on the results of the initial review staff would prepare an information report for Council to provide an update on the proposed approach for short term rental regulations.

Subsequently staff would engage stakeholders through a referral to relevant groups such as Council's Advisory Planning Commission, Economic Development Commission, and Neighbourhood Associations in addition to internal City departments. Once draft regulations have been finalized, Council would receive a report for initial consideration of the proposed regulations. After initial consideration the proposed regulations and bylaw amendments would be scheduled for a public hearing, and following third reading could be adopted and implemented.

Decision Point #2(c) – Does Council wish to engage in public consultation and stakeholder engagement prior to short term rental regulation program development?

A more comprehensive engagement process would engage the public and relevant stakeholder groups early on in the process. This proposed process would begin with staff developing a project work plan for proposed public and stakeholder consultation and subsequent regulation development. Staff would prepare a project work plan and bring an information report to Council to provide an update on the proposed process which would include identified methods of engagement. This work plan would also outline a more detailed timeline and the required staff resources for the project, however it is anticipated that this approach could take over one year, depending on available staff resources.

Proposed engagement could include public and stakeholder participation in the form of surveys, online stakeholder meetings or round tables, or a modified (online) open house for public feedback as a few potential examples. Concurrently, a detailed review of existing bylaws and policies, in depth comparisons of regional approaches to short term rental regulations and identified enforcement issues. Guiding principles for the development of proposed short term rental regulations would be identified based on the outcomes of the initial engagement process and initial review. A report would be brought to Council for endorsement of the guiding principles moving forward.

Once the guiding principles have been established a referral will be sent to internal departments and relevant agencies for comments prior to the development of draft regulations. Once draft regulations have been finalized, Council would receive a report for initial consideration of the proposed regulations. After initial consideration the proposed regulations and bylaw amendments would be scheduled for a public hearing, and following third reading could be adopted and implemented.

CONCLUSION

There are a number of decision points, outlined above, for Council to consider regarding short term rentals (*Figure 3 and Attachment 5*). Should Council provide direction to staff regarding continuing to prohibit short term rentals (decision point #1) and options for bylaw enforcement (decision points #1a - #1c), staff will proceed to implement the desired changes. Should Council provide direction to staff regarding regulating short term rentals (decision point #2) and options for regulation program development (decision points #2a – 2c), staff will proceed to develop a work plan based on Council's direction. A regulation program and bylaw amendments will be prepared for Council's consideration.

COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
September 17, 2019	THAT Council direct staff to investigate and report back to Council regarding Air BnB and short term rentals in West Kelowna within the next 6 months.	C327/19

REVIEWED BY

Mark Koch, Director of Development Services

Tracey Batten, Deputy CAO/Corporate Officer

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

Attachments:

1. Background information for Delegation to Council on September 17, 2019
2. Zoning Bylaw No. 0154 Excerpts
3. Excerpt of West Kelowna STR Data prepared by Host Compliance, January 2020
4. Council Policy – Bylaw Enforcement
5. Council Decision Points Overview