



## **Staff Report for Council Meeting**

**Date of Meeting:** April 8, 2020

**Report Number:** SRCS.20.03

**Department:** Community Services  
**Division:** Community Standards

**Subject:** **SRCS.20.03 Short Term Rental Accommodation**

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### **Purpose:**

This report is in response to Council direction to examine the feasibility of passing a by-law to license, regulate and govern Airbnb and short-term rental accommodations in Richmond Hill.

### **Recommendation:**

- a) That SRCS.20.03 be received for information purposes.

### **Contact Persons:**

Tracey Steele, Director of Community Standards, extension 2476

Lise Conde, Manager of Strategy and Government Relations, extension 6410

Ashley Dickinson, Coordinator of Strategy, Engagement and Innovation, extension 3829

### **Report Approval:**

**Submitted by:** Darlene Joslin, Acting Commissioner of Community Services

**Approved by:** Mary-Anne Dempster, Acting City Manager

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner and City Manager. Details of the report's approval is attached.

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### Background:

At its March 25, 2019 meeting, Council directed staff to examine the feasibility of passing a by-law to license, regulate and govern Airbnb and short-term rental accommodation (STRA). The full text of this resolution is in Attachment 1.

Short-term rental accommodation is generally understood to be when private individuals rent out their home, or part of their home such as a room, for short periods of time (generally 30 days or less) through internet-based platforms such as Airbnb, VRBO and Booking.com.

Staff have undertaken several activities that inform this report including:

- Participated on a York Region Municipal STRA Working Group;
- Met, discussed and corresponded with Airbnb's public policy advisor;
- Met with a third party STRA data provider to better understand the Richmond Hill STRA market, and STRA regulation services offered;
- Engaged in detailed discussions with neighbouring municipalities (Vaughan and Markham) and York Regional Police regarding STRA regulation and enforcement;
- Conducted STRA platform site searches and analysis of resulting data;
- Reviewed and analyzed the recent Local Planning Appeal Tribunal (LPAT) decision regarding the City of Toronto's STRA zoning by-laws;
- Tracked and analyzed STRA complaints received by Richmond Hill; and,
- Reviewed various academic and public policy organization publications on STRA issues and impacts.

### Short-term Rental Accommodations in Richmond Hill

In January 2020, Host Compliance, a third party company that has developed tools to quantify the number of short-term rental listings across multiple online host platforms, located 774 short-term rental accommodation listings associated with 724 unique rental units in Richmond Hill. It should be noted that these numbers represent live listings, which are not the same as active rentals. Not all of these listings are actually available to rent at any given time; many sit dormant but remain in systems because host platforms do not remove dormant listings despite inactivity.

Host Compliance also reported that Richmond Hill has seen a 31% growth in STRA listings over the last year and that Richmond Hill's listings are spread across a number of online platforms. Airbnb has the largest number of listings (over 90%), and Expedia, TripAdvisor and Bookings.com are the next most commonly used. Host Compliance estimates that the median cost to book a STRA for the night in Richmond Hill in 2019 was \$74 CAD.

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Airbnb provided the following Richmond Hill-specific information related to postings on their site:

- Active listing by type: 55% private room / 43% entire home / 2% shared room
- Average stay length: 5.5 days
- Typical number of nights rented per host: 80 per year
- Average booked nightly price: \$110 CAD

Airbnb noted that the average length of stay per guest (5.5 nights) in Richmond Hill is quite high compared to other jurisdictions. They hypothesized that this could be the result of a significant number of guests staying in a short-term rental while visiting relatives.

Staff are unable to provide more detailed information about the STRA market in the community. Platforms do not readily share details related to hosts, bookings, prices, income, or listing locations. Additionally, direct searches of available listings in Richmond Hill on host sites do not provide specific addresses, only approximate locations on a map.

### Municipal Benchmarking

STRA policy and regulation responses in benchmarked municipal jurisdictions are summarized in Attachment 2. The benchmarking highlights that there is significant variation amongst municipalities ranging from a focus on using existing regulatory tools to address symptomatic issues, to outright prohibition of STRAs via zoning restrictions.

The variation in municipal policy response to STRAs reflects two key considerations:

- 1) There are unique contextual situations specific to different jurisdictions; and,
- 2) STRAs are a relatively new phenomenon for which a preferred municipal regulatory response has yet to be established.

With regard to the unique contextual situations, the following list of issues summarizes reasons municipalities typically regulate STRAs, and provides comments related to the Richmond Hill context as applicable.

#### Issue #1 – Nuisance impacts to neighbourhoods

Common nuisance complaints are related to parking, noise, traffic and garbage. There are questions related to what level of STRA use is no longer “residential” and instead constitutes commercial use generating unacceptable levels of nuisance activity in neighbourhoods. In 2019, Richmond Hill received 28 complaints related to 26 properties alleged to be operating STRAs. These 28 complaints equate to less than 1% of the total number of complaints received by the Community Standards Division in 2019.

#### Issue #2 – Neighbourhood safety concerns

Concerns that STRAs result in an increased presence of strangers in neighbourhoods and increase the risk of crime or property damage. In most of the 28 complaints

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received by the City in 2019, complainants cited concerns about the presence of strangers in their neighbourhood and/or felt that the alleged STRA use jeopardized neighbourhood safety in general.

### **Issue #3 – Building safety**

Concerns that property owners are renting out space without an authority confirming or verifying the safety of the space. Additionally, municipalities with significant tourism may want to ensure a certain level of accommodation quality.

### **Issue #4 – Impact to commercial accommodation businesses**

Some municipalities have an accommodation tax that is applicable to commercial accommodation businesses (e.g. hotels/motels) but not STRAs, thereby creating an unfair business advantage. Also, hotels/motels pay commercial property tax while STRAs in residential areas are subject to different residential rates. Richmond Hill does not currently have a Municipal Accommodation Tax applicable to the seven hotels/motels operating in the City.

### **Issue # 5 – Loss of affordable housing stock**

Concerns that long-term rental housing stock is being removed from the long-term rental market for STRA use. There is potential for STRAs to impact rental housing vacancy rates and housing affordability. Zoning provisions in Richmond Hill currently preclude the establishment and use of second units in most areas, thus potential impact to the legal long-term rental market of secondary suites is limited at this time. There may be some impacts to long-term rental housing availability associated with STRA use of entire homes.

## **City of Toronto LPAT Hearing**

The City of Toronto passed two zoning by-laws on December 8, 2017 to regulate the short-term rental of residential premises across Toronto. Certain STRA operators appealed the zoning by-laws to the LPAT (Local Planning Appeal Tribunal). Importantly, the LPAT hearing and decision were specifically about the City's zoning by-law policies and not about the City's associated STRA licensing framework. Licensing by-laws cannot be appealed to the LPAT.

The primary issue at debate in the LPAT hearing was whether Toronto's prohibition on "dedicated STRAs" (e.g., use of a dwelling unit solely for STRA purposes year-round) is consistent with provincial planning policy and rooted in sound planning rationale. The City's position was that the zoning policies are necessary to protect the availability of long-term rental housing and prevent further degradation of the rental housing vacancy rate. It is important to note that the City's STRA zoning by-laws were not intended to address issues #1 to 4 outlined above.

On November 18, 2019 the LPAT released its decision in support of the City's position and zoning policies. The LPAT dismissed the appeals noting that "The zoning by-law amendments do not prohibit short-term rentals, but permit and regulate them in a manner that does not displace households." However, a motion for leave to appeal the

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decision to the Divisional courts has been filed. Should the motion be approved, the LPAT decision will be subject to appeal in Divisional court.

### **Richmond Hill's Current Response to STRAs**

Short-term rental accommodations are not currently addressed in the City's Official Plan or zoning by-laws, nor are they regulated by a licensing regime.

The City is actively working to improve its enforcement response to address the nuisance impacts of STRAs through:

- Update of the Noise By-law and incorporation of noise offences into the Administrative Monetary Penalty System (AMPS);
- Improvements to the noise complaint process so it is easier for citizens to report concerns, and issues will be addressed more efficiently (e.g., a new dedicated noise complaint phone line was set up in October of 2019);
- Implementation of recommendations from the 2019 Lean project to improve response to parking complaints;
- Documentation of standard enforcement protocols and use of AMPS for response to complaints about improper disposal of household waste; and,
- Transition to a new software system (Energov) for efficient management and tracking of complaints and enforcement responses.

Continued investment in public awareness and improved enforcement processes as the primary means of responding to STRA concerns:

- addresses primary concerns reported by residents;
- does not require immediate additional funding or staff resources;
- improves overall by-law enforcement results;
- allows homeowners to continue to supplement their income through rentals; and,
- provides visitors to Richmond Hill with STRA options in a residential setting.

### **Regulating STRAs**

There are two main regulatory tools available to local municipalities to regulate STRAs: 1) zoning by-laws, which set out rules about how land can be used, and 2) licensing by-laws, which establish rules around how businesses may operate. To regulate STRAs, zoning and licensing by-laws can work together. The zoning by-law defines what a STRA is, and sets out standards for locating STRA uses on a property. The licensing by-law regulates how the STRA operates by setting out requirements for compliance with certain conditions in order to obtain a license.

#### **Zoning**

Richmond Hill has initiated work toward the development of a new Comprehensive Zoning Bylaw (CZB) for the entire City. Currently, the CZB project is in the background research stage, which includes a technical paper focused specifically on short-term

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rental and shared accommodation type uses. Stakeholder engagement for this paper is tentatively set for late spring to early summer of 2020.

With regard to the issues identified above, the Toronto LPAT decision supports the idea that zoning is an effective means of addressing issue #5 (loss of affordable long-term rental housing stock). Zoning could assist in addressing issues #1 and #2 (nuisance impacts and concern about neighborhood safety) by defining what constitutes a residential STRA (vs a commercial accommodation business) and thereby only allowing certain types of STRAs in residential areas. Zoning cannot address issues #3 or #4 (regarding building safety and fair taxation).

Enforcement of zoning by-laws is typically undertaken on a complaint basis. Additionally, it is worth noting that neither AMPS nor a Provincial Offences Act ticketing system (Part I fine) can currently be used to enforce zoning; municipalities must lay Part III charges to enforce zoning by-laws.

### **Licensing**

Licensing by-law provisions can establish conditions upon which the license would be granted. For example, the STRA could be required to submit a fire safety plan, pass a fire or building inspection, be located in an appropriately zoned area, or accumulate demerit points in the event of non-compliance with City by-laws.

Some municipalities have chosen to license STRAs in attempts to address issues #1 through #4 above. With respect to issue #3, implementing a licensing by-law will require the City to ensure that the property owner has met the “conditions” prior to the issuance of a license. When a license is issued by the City, a renter will assume that the City has approved the premise for safety (that it meets the building and fire code requirements, possibly verified/vetted the property owner) and generally approved the property owner and renter transaction. All of this could open the City up to additional liability and possibly litigation.

Licensing typically requires proactive enforcement to be successful (rather than complaint-based enforcement) and the degree of program success may be related to the amount of resources invested in education and enforcement. Research suggests that a licensing program is very unlikely to be revenue neutral as licensing revenue is typically only able to offset a portion of necessary administration, inspection and enforcement costs.

Additionally, licensing programs place an additional operational burden on STRA hosts and reduce the income realized from their rentals. One of the licensing issues experienced by other jurisdictions is that the hosts causing the neighbourhood issues are also the ones contravening the licensing program.

### **Financial/Staffing/Other Implications:**

There are no financial or staffing implications associated with this report.

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### **Relationship to the Strategic Plan:**

STRAs provide property owners and visitors to Richmond Hill with better choice in terms of alternatives for financing their property ownership and in terms of accommodation in the City. Consideration for the appropriate level of regulation for STRAs is consistent with the Strategic Plan strategy of maintaining a clean and safe community through education, community involvement and enforcement. Additionally, the current approach to addressing STRA nuisance impacts through improved enforcement processes aligns with the goal of Wise Management of Resources by leveraging existing personnel, tools and financial resources.

### **Conclusion:**

It is estimated that there are approximately 725 Richmond Hill addresses that have been advertised as STRAs. In 2019, the City received 28 complaints related to 26 properties, which equates to less than 1% of the total number of by-law complaints Richmond Hill received in 2019.

Short-term rental accommodation uses are currently not addressed in the City's Official Plan or zoning by-laws, nor are they regulated by a licensing regime. Municipal benchmarking indicates that, at present, there is no preferred municipal regulatory response to STRAs. Jurisdictional regulatory responses vary and are intended to address the unique complement of issues specifically experienced by the individual municipality. In Richmond Hill there is no issue clearly driving a need for STRA regulation at the present time.

The City will continue to address the nuisance impacts of specific STRA sites through enforcement with continued work on improvements to enforcement processes in general. Additionally, ongoing background research for the Official Plan and CZB will continue investigations to determine desired STRA planning policies while awaiting the final outcome of the Toronto LPAT hearing.

### **Attachments:**

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call the contact person listed in this document.

- Attachment 1: Richmond Hill Council Resolution
- Attachment 2: Policy Response to Short-term Rental Accommodation in Other Municipalities

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### Report Approval Details

Document Title:	SRCS.20.03 Short Term Rental Accommodations.docx
Attachments:	- SRCS.20.03 Attachment 1 - RH Council Resolution.docx - SRCS.20.03 Attachment 2 - Policy Response in other Municipalities.docx
Final Approval Date:	Apr 3, 2020

This report and all of its attachments were approved and signed as outlined below:

**Darlene Joslin - Mar 30, 2020 - 11:16 AM**

**MaryAnne Dempster - Apr 3, 2020 - 9:33 AM**