



The Corporation of the Township of Seguin

Agenda for a Special Meeting of Council

to be held on Monday, March 13th, 2023

**in the Township of Seguin Council Chambers
and Electronic Participation**

- 01. Land Acknowledgement. 2:30 p.m.**
- 02. Call to Order and Approval of the Agenda. ®**
- 03. Disclosure of pecuniary interest and the general nature thereof.**
- 04. Council Discussion and Direction – Short Term Rentals. Report No. DPS-PL-2023-004. ®**
- 05. Confirming By-law No. 2023-032. ®**
- 06. Adjournment. ®**



Seguin Township Staff Report to Council

Prepared for: Mayor and Members of Council

Subject: Short-Term Rentals – Options and Recommendation

From: Senior Leadership Team

Agenda Date: March 13, 2023 **Report No:** DPS-PL-2023-004

Executive Summary:

Staff recommends that short-term rentals (STRs) are managed and maintained through a licensing by-law/ program in conjunction with enhanced quality of life by-laws and education. To minimize financial impacts on the ratepayer, a licensing fee structure or other means of cost recovery will be presented to Council at a future meeting date.

Further by-laws will be brought forward to Council to implement this recommendation.



Seguin Township Staff Report to Council

Prepared for: Mayor and Members of Council

Subject: Short-Term Rentals – Options and Recommendation

From: Senior Leadership Team

Agenda Date: March 13, 2023 **Report No:** DPS-PL-2023-004

Recommendation:

That Council direct staff to update the Township's by-laws to permit short-term rentals, taking the following action:

1. **Improve and expand "quality of life" by-laws.** Existing noise, garbage, burning and other similar by-laws are being reviewed and improved/strengthened as necessary. New by-laws will be introduced to fill any gaps related to quality-of-life in the Township to work in tandem with any licensing regime.
2. **Introduce a Licensing By-law** that would regulate several factors related to short-term rentals, including environmental impacts (sewage), human health and safety matters, number of guests, noise and nuisances, parking, burning, garbage and length of stay.
3. **Ensure financial sustainability** so that the cost to govern and regulate short-term rentals will not be a financial burden on the existing tax base.

1 - Background

An information report was brought forward to Council on December 12, 2022, which highlighted the results of the 2022 public consultation.

The results of the survey noted:

1. When respondents were asked their opinion on the appropriate path forward as to how best to manage short-term rentals (STRs), there was a close split between the following options:
 - a. 32.8% supported prohibiting STRs and strengthening existing by-laws.
 - b. 34.1% supported introducing a licensing program for STRs, subject to rules, fees and enrollment.
 - c. 33.1% supported permitting STRs in a 'laissez-faire' manner, but with more strongly enforced noise, burning and other by-laws which relate to STRs.

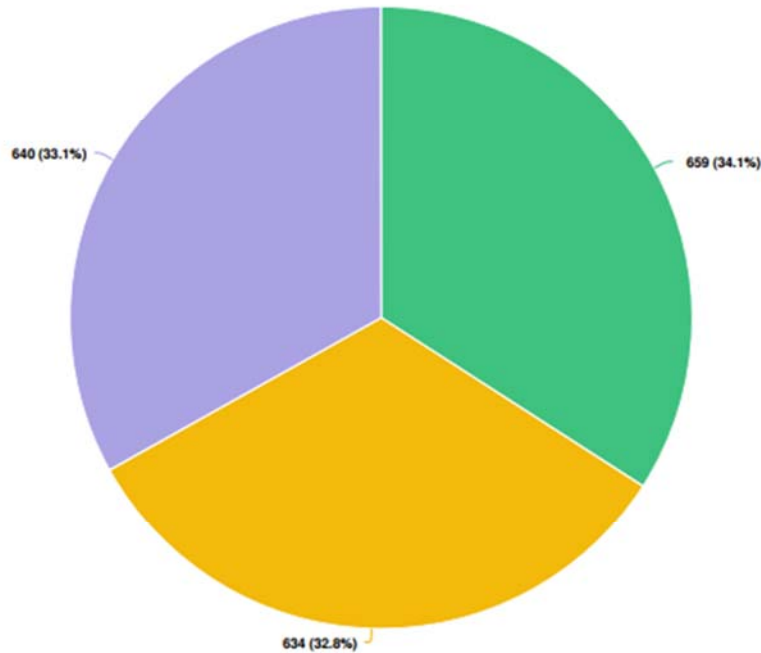
One goal of the 2022 engagement campaign was to receive as much feedback as possible to expand on the 2020 survey results. When the public consultation closed, some individuals expressed concern about the integrity of the online survey. The digital survey was distributed by Bang the Table, an online engagement tool trusted by hundreds of Canadian and American municipal governments. Staff implemented all security options offered through this tool to deter/prevent fraudulent entries. For example, residents had to register to take the survey. Each registered participant could submit only one survey.

Specific concerns alleged that staff may have received and processed photocopied versions of the original survey. Staff did not see any evidence of this. The paper survey, distributed in the mail to all Seguin taxpayers, included a prepaid, addressed envelope. All returned paper surveys were enclosed in these envelopes. Each of these envelopes included only one completed survey. It is worth noting that 1,347 of the 2,105 responses were submitted in this paper format.

Figure 1 –2022 Engagement (This question had 1932 Respondents)

Seguin Township Short-Term Rental Survey : Survey Report for 31 August 2021 to 01 December 2022

Q15 What solution would you like Seguin Township to consider to improve how we manage short-term rentals?



Question options

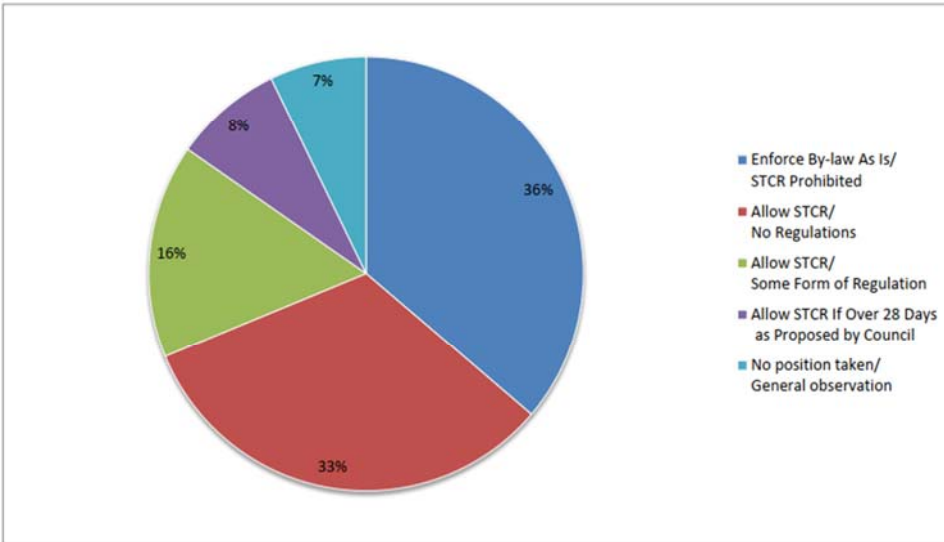
- Introduce a licensing program, permitting short-term rentals, increasing property owner and renter education, accountability and regulation. Fees would fund the additional resources needed to effectively manage the program.
- Rewrite and strengthen current by-laws to attempt to prohibit all short-term rentals. This would require increased resources to monitor and enforce these by-laws.
- Rewrite current by-laws to allow short-term rentals to operate freely, enforcing current noise and other related by-laws as needed.

Overall, more individuals are in favour of permitting short-term rentals than prohibiting them. Seguin’s response to this ongoing issue must be guided by good governance, sustainability, providing solutions to public concerns.

Additionally, the 2022 survey results are not a dramatic deviation from the results of a 2020 Public Engagement on this topic, per Figure 2 below.

Figure 2 – 2020 Public Engagement (320 Respondents)

2020 Short Term Cottage Rental/Short Term Accommodation Public Engagement Results



Allow STCR/Some Form of Regulation Response Type

Type of Regulation Proposed	Respondents
Allow STCR by licensing/permits/fines	12
More enforcement of nuisance by-laws if STCR is allowed	11
Private (friends/family only)	13
Limit amount of rental days allowed per year	5
Minimum 7-21 day rental period	8
Restrict number of people	2

No Position Taken/General Observation Response Type

Type of Comment	Respondents
Asking to be more specific	2
General observations	8
Asking further clarification	2
Listing Nuisances	11

<p>* Rankin Lake Property Owners' Association 2018 survey revealed that most of their respondents would prefer the Township to enforce the By-law as is and restrict full-time commercial rentals.</p>	<p>*OLRA conducted a 2017 membership survey with 120 responses. 84% said Seguin should enact a by-law to regulate or prohibit the commercialized rentals. Based on the feedback from the survey, OLRA recommends enforcing the By-law as is on a complaint basis.</p>	<p>* LJNA conducted 2018 membership survey. Over 200 responses received and strong support (78%) for by-laws to regulate or prohibit short term cottage rentals</p>
--	---	---

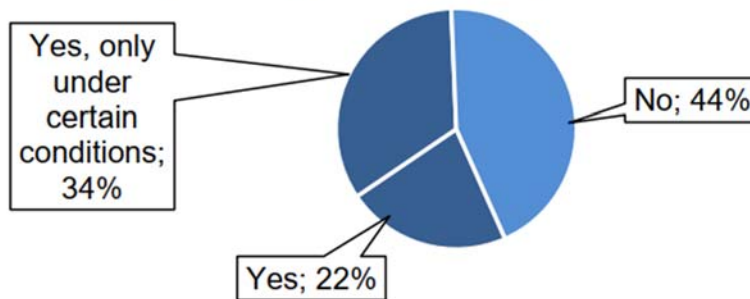
Allow STCR/No Regulations

Included in Total:
Employed with Jayne's Cottages - 8
Rentals/Renters with Jayne's Cottage - 38

The majority of respondents were in favour of permitting STRs in both the 2020 and 2022 public engagements.

Of some relevance, Collingwood had a similar response to this question. This topic seems to bring out similar public opinions, regardless of the location.

Figure 2: Would you be comfortable with permitting STAs in Collingwood?



2 - History

Cottages have been enjoyed seasonally by owners, extended family, and renters for generations in our Township.

However, in recent years, short-term cottage renters have extended beyond property owners' close relations. Social media and websites like VRBO and Airbnb have made it much easier for owners to offer their cottages to a broader clientele interested in experiencing cottage life. Many owners see this as an opportunity to earn the income required to maintain their property and pay taxes (as noted in the public engagement responses).

These online listings make it simpler for prospective renters to find vacation homes and for renters' neighbours to determine who in their area is renting out their cottages. These factors: shifting trends; increased demand for cottage rentals; online advertising; and more cottage owners seeing an economic opportunity, have led to more short-term rentals in Seguin, increased reporting and concerns about how these rentals may be impacting quality-of-life.

Seguin Township staff have responded to these concerns as the issue has evolved. To date, staff have prepared 18 reports related to STRs in Seguin. The goal of this report is to provide a recommendation that removes any uncertainty of how this matter will be managed.

3 - Analysis

3.1 - What is a Short-term rental?

A short-term rental may be defined as all, or part of a dwelling unit rented out for less than 28 consecutive days in exchange for payment. This includes bed and breakfasts (B&Bs) but excludes hotels and motels. It excludes other accommodation where there is no payment.

Online short-term rental platforms such as Airbnb, VRBO, HomeAway, and FlipKey fall within the 'sharing economy' which describes online platforms that connect private individuals, in order to sell or rent items/services. Home sharing has increased in popularity because it provides a more personal alternative to hotels during vacation or business travel, and income potential to the homeowner that can help supplement mortgage payments.

Short-term rentals generally can occur in three forms:

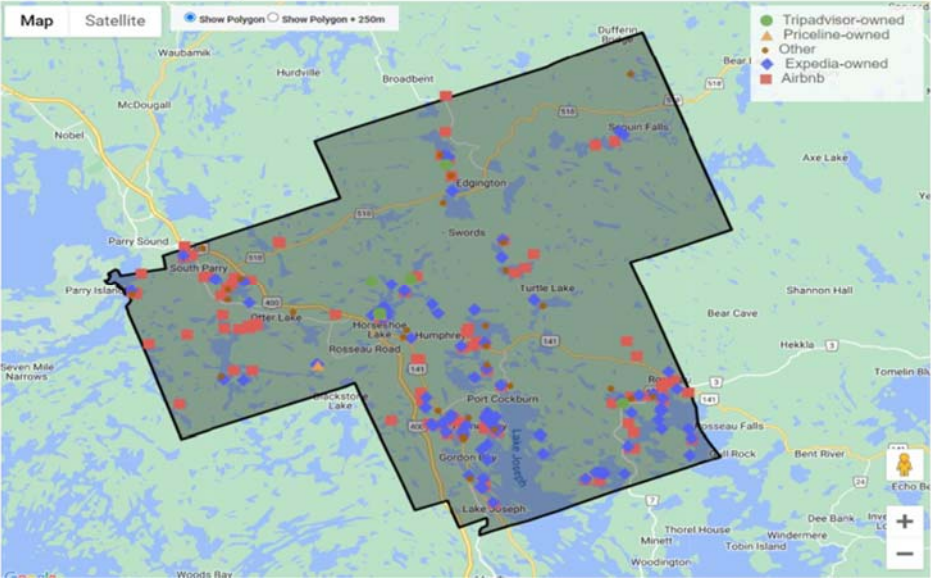
- i. A homeowner rents their entire dwelling only while they are away from their property. In this case, the property is used primarily as the homeowner’s residence and is only rented on a part-time/occasional basis when not occupied by the homeowner.
- ii. A homeowner rents their entire dwelling, but there is no full-time resident occupying it. In these cases, the buyer purchases the dwelling with no intent to reside in it, operating primarily as a STR to generate income (also known as a ‘ghost hotel’); and
- iii. A property owner rents an accessory unit for short-term stays. These include units above a detached garage or in a basement.

3.2 The Challenges of Prohibition/ Assessment of Sustainability of Seguin’s Current Position

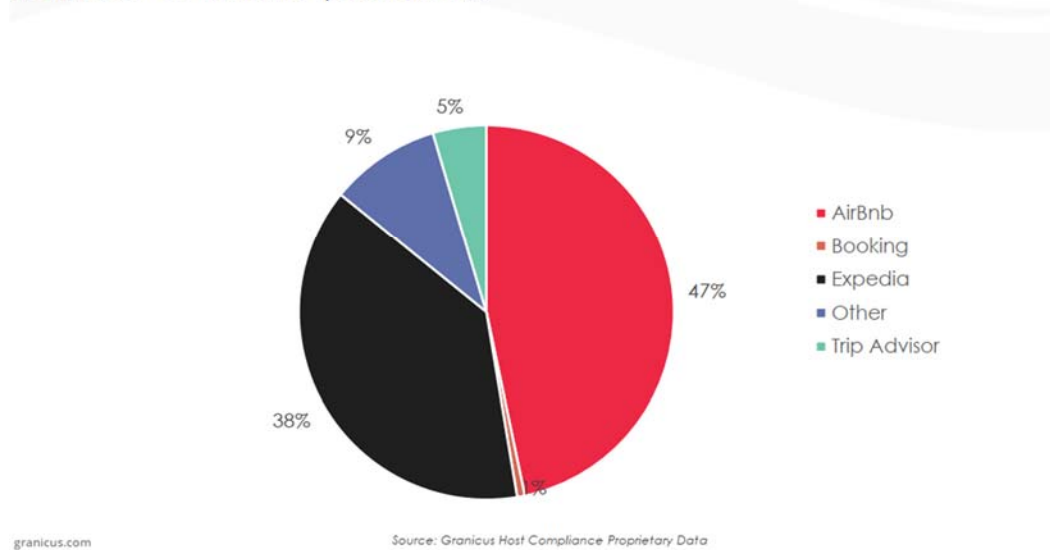
Currently, short-term rentals are prohibited in Seguin Township. The Township’s Solicitor has advised that this prohibition, as noted in Resolution 2020-485 (Schedule A to report), is based upon the definition of a dwelling unit within the Zoning By-law. However, this stance has not been challenged in court and there are concerns that prohibition is not strong enough to serve as the Township’s main legal argument.

It is worth noting that despite the prohibition Granicus Host Compliance found there were 238 properties being used for STRs in February 2023 alone (representing a 76% increase to the previous year), while Harmari Short-term rental Compliance found there have been 260 listings since 2020. There is an abundance of listings despite being prohibited.

Figure 3 – STRs in Seguin and Online Source



Seguin's short-term rental listings are spread across a number of online platforms



Seguin's By-law Services department has tracked complaints related to STRs. To date, 29 properties have received complaints related to STR issues.

Short-term rentals are not a black-and-white commercial land use. It is difficult to say with legal certainty that if a homeowner rents their cottage for a short period of time over the course of the year, that the property is now commercial. Although in that scenario it would qualify as a STR, the core use is still a single detached dwelling being used in a similar manner to a seasonal home.

However, where this argument can then be challenged is the amount of time a cottage is rented annually. There is a major difference between a dwelling being used as a STR for a week vs 52 weeks. Zoning is not an effective tool in addressing this matter, but licensing can create minimum and maximum rental timeframes.

There are several barriers to successful prohibition, including:

- i. Legal Non-Conforming uses.
 - o The Township's solicitor has advised that to prohibit STRs, the municipality would need to define and prohibit them via a Zoning By-law amendment. However, this would result in previously existing STR owners in claiming legal non-conforming rights. At a minimum, we know this will permit at least 260 uses in the Township. This would grow as documentation showing previous rentals would surface.

As a result, our solicitor advised that the municipality would then need to license and govern those legal non-conforming STRs. In other words, prohibition would result in legally recognized STRs, and still leads to a licensing regime to manage the symptoms. What it may do is prevent new STRs from being established.

The final challenge, if STRs are governed by the Zoning by-law as a restricted land use, amendments will be submitted at a site-specific scale. These amendments will need to be evaluated against Official Plan Policy which works within a planning framework. These requests can be appealed by the applicant and neighbours as part of the public process. However, a licensing by-law cannot be appealed in a similar fashion.

- ii. Enforcement challenges continue to exist due to lack of reliable data.
- iii. Attempting to enforce a ban can be circumvented, as the use can be driven underground (renters are groomed to answer questions in a certain manner, and websites are avoided to advertise).
- iv. Municipalities that have attempted to prohibit short-term rentals through their Zoning By-laws have been faced with such hurdles as outlined in *Puslinch v. Monaghan*.
- v. Another example is found in Oro-Medonte, where the municipality lost an Ontario Land Tribunals (OLT) case. The OLT found the Township's attempt to control short-term rentals through a by-law amendment to be an overreach. The OLT made it clear that banning STRs in the municipality is not good planning, which is why it revoked the amendment to the by-law, and it led to legal non-confirming complications. Furthermore, the OLT noted that any regulation of short-term rentals should be done through a combination of licensing and a zoning by-law. This has since been appealed.

For the above reasons, staff do not see prohibition as a viable option nor a sustainable path for the Township to continue upon. It is not a best management practice. This narrows the solution to two options: permitting without regulation (i.e., Laissez-faire or permissive) or permitting with licensing/regulation (i.e., short-term rental licensing by-law).

3.3 Licensing vs Permissive

Short-term rentals (STRs) – whether facilitated through niche formats, or larger applications like AirBNB and Vrbo, have become a challenge for communities, especially smaller municipalities with limited resources. Yet, residents need a solution to address their growing concerns related to STRs.

In the absence of any provincial legislation or regulation governing STRs, there is no standard way to regulate STRs in Ontario, and each municipality must determine its own approach. There are also restrictions as to what can be regulated through planning policies, such as the zoning by-law and the Official Plan.

Municipalities can adopt a short-term rental licencing by-law through the Municipal Act, that provides better controls to minimize the impacts of short-term rentals.

A licencing by-law strengthens the municipality to hold homeowners responsible for controlling their property and the renters within it, by establishing regulations related to several pressing issues, including mandatory contact information and homeowner’s response times in the event of a complaint. It has been shown that a short-term licencing by-law, together with strong quality-of-life by-laws, can address issues of concern connected to STRs.

The other option could be permitting STRs without licencing. In this scenario, the intent would be to allow ‘quality of life’ by-laws to regulate behaviour, without creating standards specifically related to STRs. Administratively, this would be the most straight-forward approach as the core issues would be addressed by the applicable by-laws. Figure 4 compares the two approaches.

Figure 4 – Permissive vs Licensing

	Option 1 – Permissive – No STR By-law	Option 2 – Permit STRs with Licensing By-law
Quality of life By-laws	✓	✓
Enforcement Costs	✓	✓
Increased Administrative Costs	X	✓
Opportunity for Revenue	X	✓
Limit Number of Guests, and Rental Timelines	X	✓
Requirement for Contact Info	X	✓
Enhanced Owner Accountability	X	✓

Many municipalities have decided to regulate short-term rentals through licencing with a neighborhood approach in mind. It is important for Council to ask: What are the primary concerns that exist for residents and for the municipality related to short-term rentals? What are the most sustainably, fiscally responsible, effective and democratic tools to address these concerns? It is staff's opinion that licensing and cost-recovery, together with enhanced quality-of-life bylaws, are the answers.

3.4 What Are Other Municipalities Doing?

There is no one-size-fits-all solution to this matter, but effective solutions are emerging in other municipalities. There is a trend towards licensing/regulating to deal with issues associated with STRs.

There was a cross-municipal analysis presented to Council in April of 2020, but there have been changes since then. Through consultation with numerous municipalities, staff have learned that there has been a consistent trend away from prohibition towards licensing. At the December 2022 Council meeting, Council requested to see how other municipalities are governing STRs, Figure 5 presents a summary:

Figure 5 – Municipal Analysis

	Oro-Medonte	Bracebridge	Niagara on the Lake	Muskoka Lakes	Gravenhurst	Huntsville	Collingwood	Wasaga Beach	Blue Mountains	Lake of Bays
Status	Prohibited. The municipality passed a zoning by-law amendment to prohibit STRs, but it was successfully appealed. The amendment was repealed. This OLT decision has since been appealed.	Permitted at the current time, but subject to a review. Mandatory registry. The Zoning By-law is silent on the matter, so it is assumed they are permitted.	Permitted. Generally permitted in single detached dwellings.	Permitted The Zoning By-law is silent on the matter, so it is assumed they are permitted. "There is nothing restricting a property owner from renting a cottage on a long or short term basis."	Permitted.	Permitted in all zones that allow single detached dwellings. Permitted as an accessory use in residential, shoreline residential, mixed use, and rural zone.	Governed as a Bed and Breakfast. Currently is a more prohibitive approach than permissive	Governed by Zoning in a more restrictive manner.	Specific areas of the Town that are zoned to allow for licensed STA and Commercial Resort Unit. Restrictive Zoning regulations	Permitted in Residential zones
License?	n/a – prohibited However, the OLT has recommended a licensing by-law	In process per consultant's report	yes	no	yes	yes		Requires a business licence with applicable zoning.	Yes	Yes
Other	Staff have recommended a licensing by-law and to enter into an agreement with Granicus for monitoring and compliance.	A consultant has recommended Official Plan policies, Zoning By-law amendments, a Licensing By-law and a Municipal Accommodation Tax.	Online register of licensed STRs	Council has directed staff to move forward with the development of a short-term rentals licensing by-law.	Also use an Administrative Monetary Penalty System (AMPS) for enforcement	Online register of licensed STRs	Staff have recently recommended a licensing framework to permit short-term rentals. The direction is to become more		Also use an Administrative Monetary Penalty System (AMPS) for enforcement.	Designed a quick reference guide poster with rules and by-law references Online register of licensed STRs
Cost Recovery	n/a	n/a at this point. municipal accommodation tax recommended	municipal accommodation tax and license fees		municipal accommodation tax and license fees	municipal accommodation tax and license fees	A municipal accommodation tax is recommended	Fees by-law	Fees by-law	Licensing.

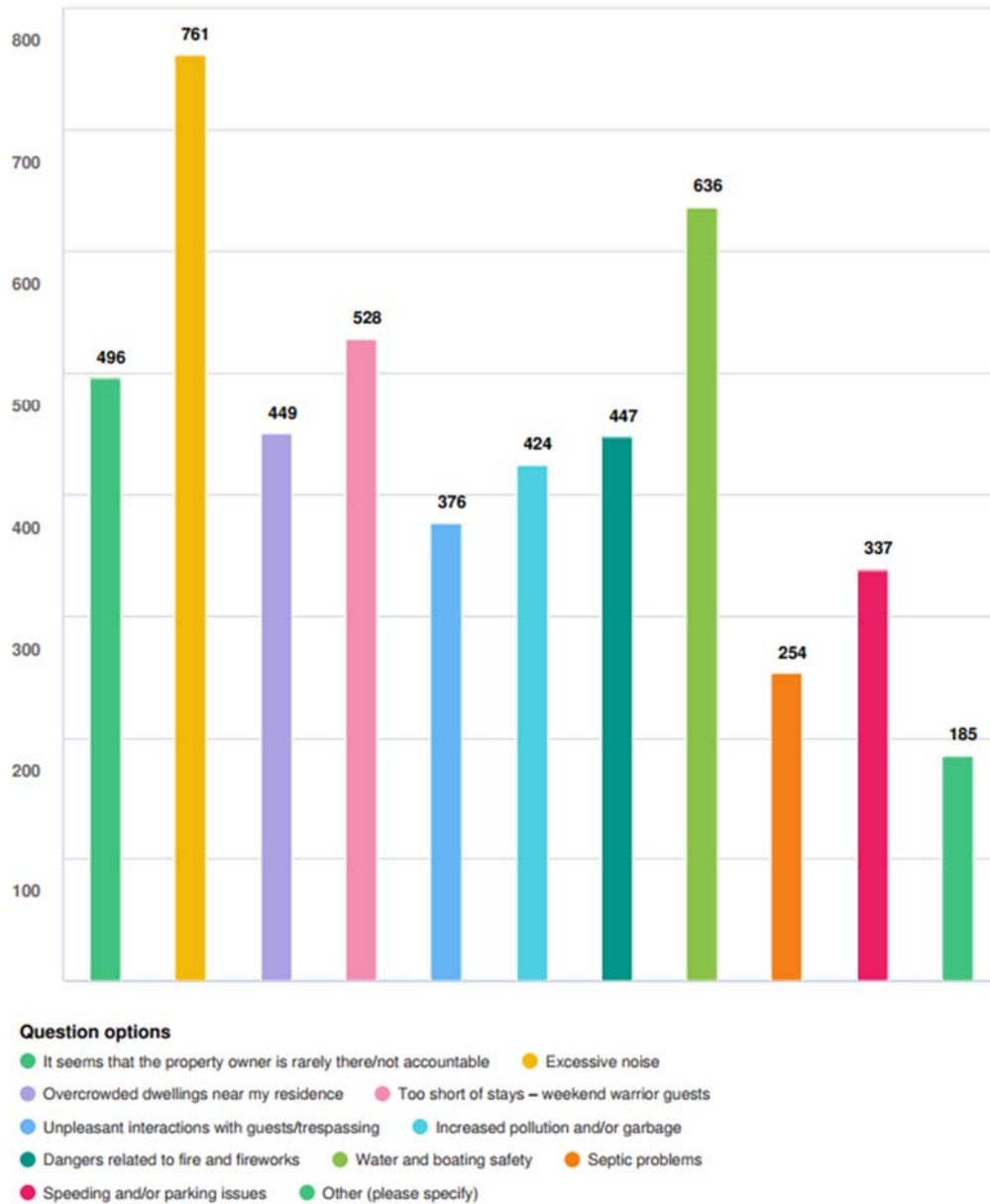
Several municipalities, including Collingwood, and Oro Medonte, are currently modifying their current approaches or have received staff recommendations to license. In speaking to several staff members at other municipalities, the consensus is generally that a licensing approach is the most successful way to address the concerning symptoms of STRs.

3.5 Strengthening “Quality of life By-laws”

Many complaints regarding short-term accommodations revolve around quality-of-life concerns like nuisance parties, noise, illegal parking, use of fireworks, and refuse or littering. This is illustrated in Figure 6, which are the results of the 2022 public engagement.

To tackle these concerns, the Township is undergoing a by-law transformation workplan. Existing by-laws are under review, with new by-laws in production, to ensure by-law enforcement officers have the tools required to investigate, action, and resolve quality-of-life concerns promptly and effectively. Examples are a Noise By-law, Public Nuisance By-law, Clean yards By-law and a Fireworks By-law.

Figure 6 – Areas of Concern from 2022 Survey



As mentioned, the examples of quality-of-life by-laws described above are not a replacement for a short-term rental licensing by-law. These enhanced by-laws will further address many of the quality-of-life concerns and symptoms often associated with STRs. These initiatives are underway and will be completed separately and regardless of the outcome of this discussion.

3.6 Financial Implications and Opportunities

With short-term rentals (STRs) comes costs to enforce, regardless of which approach is taken. By-law enforcement and costs/resources are required to enforce quality-of-life by-laws whether they are permitted or prohibited.

Permitting by a licensing program comes with additional costs, as staff resources are required to ensure the registration system is adhered to, review applications and monitor the program.

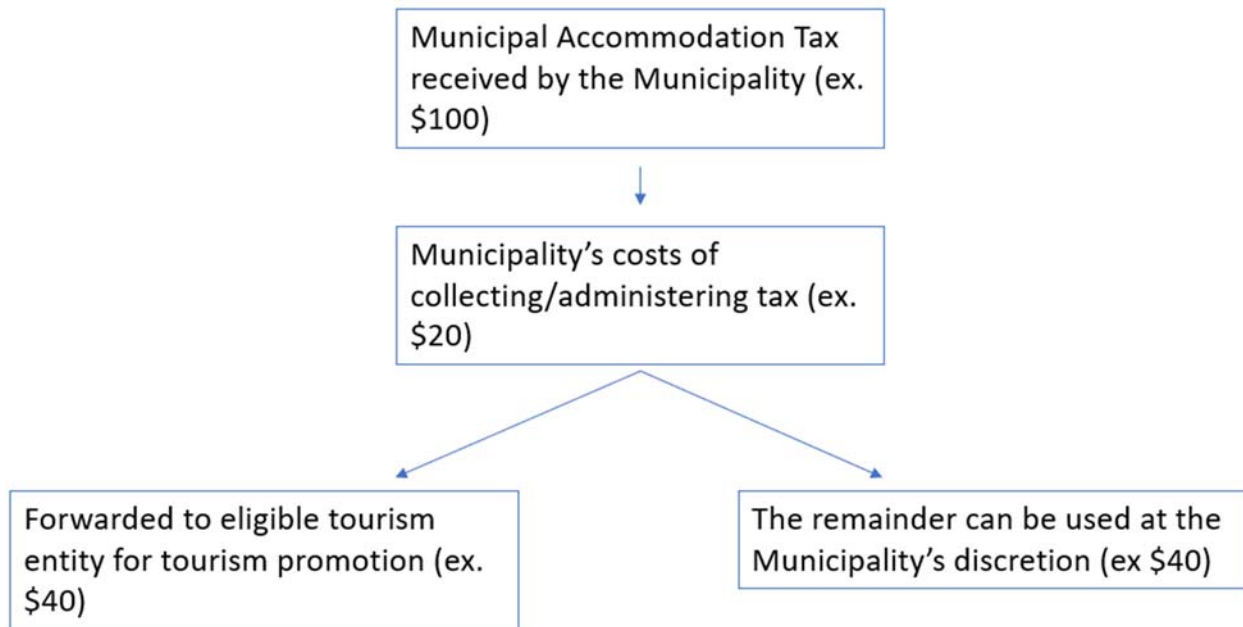
There are two main sources of cost recovery associated with STRs, which are licensing fees and a transient accommodation tax (known as Municipal Accommodation Tax or MAT).

Generally, licensing fees seek to break even between the cost of enforcement and administering a program. Business licenses are not permitted to be a revenue generation tool for municipalities. The intent is that the cost of these programs is not borne by the general rate payer, but the municipality does not profit from a business licence either.

The other tool is a Transient Accommodation Tax, or Municipal Accommodation Tax (MAT).

- A MAT taxes users of STRs and other traditional tourist accommodations.
- The commonly accepted rate is a 4% charge which the renter/customer pays. There is no additional cost to the operator as it is passed to the customer. They do have to forward this tax to the municipality.
- The MAT requires municipalities to share at least 50% of their revenues from the tax with an “eligible tourism entity”, being a not-for-profit tourism organization chosen by the municipality. This process is illustrated in Figure 7.
 - Some municipalities have created their own municipal service corporations to serve as the eligible tourism entities, such as Huntsville and Gravenhurst. Some communities have also partnered with economic development organizations whose mandate includes tourism to serve as the eligible tourism entity. Eligible tourism entities are required to spend the funds on promoting tourism, although the agreement may provide for other services or requirements.
- The remaining funds have considerable municipal discretion in how they are used – there are no restrictions.

Figure 7 – MAT Flow Chart



** This chart is for illustrative purposes, the cost breakdowns are there to help illustrate how the MAT formula is implemented, but is not representative of actual cost sharing or dollar amounts.*

3.7 Successful Enrollment and Cost Projections

Third party operators are a vital resource to successfully implement a STR registration program. Firms such as Granicus, ORHMA or Avenu Insights and Analytics track the major listing websites and essentially ensure renters adhere to the municipality's by-law.

These firms will:

- Communicate with registered renters. They will locate and notify listers by sending out a compliance letter, copy of advertisement, and timeframes to enlist in the registration program. This record is legally enforceable should By-law Services need to undertake enforcement.
- Accepting complaints as they come through a 24-hour hotline which contacts the lister to resolve the complaint.
- Monitor compliance, ensuring each listing complies with the Township's by-laws.
- Offer mobile permitting and registration. An online form and back-end system to streamline the registration/license/permitting process.

There are opportunities to offset the costs of licensing and enforcement, based upon licensing fees and a MAT, as per Figure 8.

Figure 8 – Potential Revenue and Third-Party Costs

	Summer 2022 STRs*	February 2023 STRs*
Number of STRs*	137	238
Licensing Revenue		
License Fee (Annually)	\$750	\$750
Granicus Fee	\$14,350	
Net License Revenue**	\$ 67,850	\$128,450

It is also possible for further revenue to be generated through the introduction of a municipal accommodation tax per the estimates below. This would require separate investigation and analysis, and is not the focus of this report. A MAT has impacts beyond just short-term rentals. The chart is merely provided for background information.

Municipal Accommodations Tax		
<i>Median Nightly Rate*</i>	\$ 890	\$ 500
<i>Net MAT Revenue***</i>	\$116,874	\$113,592

* Based upon Granicus data, including TripAdvisor, Priceline, Other, Expedia and Airbnb. Local listings may be excluded.

** Assuming 80% enrollment rate

*** 4% MAT payable by renter. Assuming 35 nights of rentals annually at 80% capture rate.

Staff would like to note the above projections are conservative. The assumptions are projected low, and still show promising revenue potential.

Timelines

Should the recommendation of this report be approved, a licensing by-law will be drafted for Council’s consideration. When this by-law is brought forward, a recommendation on how to successfully implement it (in-house vs a third-party firm) will also be brought to Council.

The ‘quality of life’ By-laws are being improved regardless of this report.

Any amendments to the Zoning By-law (if required) would also be brought forward.

Consideration of a municipal accommodation tax (MAT) would require separate consideration and analysis. The overall STR licensing recommendation and successful implementation can go forward exclusively from a MAT, as a MAT acts as additional revenue source. Staff are of the opinion the MAT provides an attractive revenue generation source that should not be dismissed.

Staff would work to launch a licencing program this year, with widespread adoption over the upcoming fall and winter.

This program would also include a robust digital and print education campaign.

Financial Impacts:

Council approved \$50,000 in the 2022 Capital Budget to support review and refinement of the Townships by-laws.

Options/Alternatives:

To date, there have been close to 20 staff reports on this matter to Council since 2017. Multiple departments are of the opinion that a prohibition is not a sustainable approach – a strong licencing program is the most effective and realistic tool to address residents' concerns. The majority of municipalities with similar concerns to Seguin are taking this path for similar reasons.

Considering Seguin's extensive public engagement, research and the complexity of this issue, the only other feasible option is to:

1. Allow STRS without any licensing/regulatory regime. Enforce "quality of life" by-laws in isolation.
 - a. The "quality of life" by-laws are currently being improved for future Council consideration, regardless of the STR issue.

Strategic Plan Alignment:

Public engagement and input through this engagement initiative will support all three priorities as outlined in the 2019-2022 Strategic Plan:

Environmental Leadership;
Community Prosperity; and

Exceptional Community Experience.

Conclusion:

Short-term rentals are a contentious topic in Seguin. Based upon public feedback, best practices, industry trends, and fiscal responsibility, and minimize disputes between residents, a licensing by-law is recommended and consideration of a Municipal Accommodation Tax/other means of ensuring no negative revenue.

Prepared by:



Senior Management Team (Valerie Iancovich, Taylor Elgie, Rory Payton, Michele Fraser, Sean Carroll)

Approved by:



Jason Inwood, CAO

Attachments:

Schedule A – Resolution 2020-485

(TE, VI, JI, RP, MF)



Resolution No. 2020-485

**The Corporation of
the Township of Seguin**

Moved by DM Daryle Moffatt

Seconded by AC Art Coles Date November 16th, 2020

THAT as per the recommendation of Staff Report No. DPS-PL-2020-123 the Council of The Corporation of the Township of Seguin does hereby direct legal counsel and staff to act on the following next steps related to the Short Term Cottage Rentals/Short Term Accommodations (STCR/STA) matter:

- i. Do not proceed with amending the Zoning By-law to include a definition for (STCR/STA) at this time (staff);
- ii. Continue to enforce the Zoning By-law as (STCR/STA) are not specifically stated as a permitted use in any of the Shoreline Zones (legal counsel); and,
- iii. Process any ~~site specific amendments to the Zoning By-law~~ should a property owner wish to legalize a (STCR/STA) use (staff).

RO carried
DM EDM

DIVISION LIST Yea Nay Absent Abstain

Coles	___	___	___	___	CARRIED <u>EDM</u>
Collins	___	___	___	___	DEFEATED ___
Fellner	___	___	___	___	
Finnson	___	___	___	___	
Moffatt	___	___	___	___	
Osborne	___	___	___	___	
MacDiarmid	___	___	___	___	