

THE CORPORATION OF THE TOWNSHIP OF RAMARA

BYLAW NO. 2021.78

**A BYLAW TO AMEND BYLAW 2001.87 BEING A
BYLAW TO APPORTION THE CHARGES OF THE
LAGOON CITY PARKS AND WATERWAYS
COMMISSION**

WHEREAS the Township of Mara Act, 1986 (hereinafter referred to as "the Act") authorizes the Corporation of the Township of Ramara to establish by by-law a body corporate to be known as the Lagoon City Parks and Waterways Commission (hereinafter referred to as "the Commission"), with the powers and authority set out in the Act;

AND WHEREAS the Council of the Township of Ramara passed Bylaw 2001.50 to re-established the Lagoon City Parks and Waterways Commission;

AND WHEREAS the Council of the Township of Ramara passed Bylaw 2001.87 to apportion the charges of the Lagoon City Parks and Waterways Commission;

AND WHEREAS the Council of the Township of Ramara wishes to amend Bylaw 2001.87 to increase the levy applied to Short Term Rental Accommodation units within Lagoon City.

NOW THEREFORE, the Council of the Corporation of the Township of Ramara hereby enacts as follows:

1. THAT Section 1(a) include the following:
 - i. Notwithstanding Section 1(a) above, any residential dwelling unit operating as a Short Term Rental Accommodation and licenced through the Township of Ramara shall be classified as a hotel or motel and shall be apportioned at a rate of four times the base levy.
2. THAT this Bylaw shall come into full force only upon its being approved by the Ontario Land Tribunal (formerly Ontario Municipal Board) and shall apply to the apportionment of the Commission's expenses for the year 2022 and following years.

BYLAW READ A FIRST AND SECOND TIME THIS 27TH DAY OF SEPTEMBER 2021.

Original Signed
BASIL CLARKE, MAYOR

Original Signed
JENNIFER CONNOR, CLERK

BYLAW READ A THIRD TIME AND FINALLY PASSED THIS 7TH DAY OF NOVEMBER, 2022.

Original Signed
BASIL CLARKE, MAYOR

Original Signed
JENNIFER CONNOR, CLERK

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: October 21, 2022

CASE NO(S): OLT-22-002214

PROCEEDING COMMENCED UNDER section 8(2) of the *An Act Respecting the Township of Mara*

Appellant:	Township of Ramara
Subject:	Seek approval of By-law
Description:	By-law No. 2021.78 – Seeking amendments to levies that applies to Short Term Rental Accommodation units within Lagoon City
Reference Number:	By-law No. 2021.78
Property Address:	Town Wide
Municipality/UT:	Ramara/Simcoe
OLT Case No.:	OLT-22-002214
OLT Lead Case No.:	OLT-22-002214
OLT Case Name:	Ramara (Township) v. Ramara (Township)

Heard: September 21, 2022 by video hearing

APPEARANCES:

Parties

Township of Ramara

Counsel

John Ewart

**MEMORANDUM OF ORAL DECISION DELIVERED BY WILLIAM R. MIDDLETON ON
SEPTEMBER 21, 2022 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] This Decision arises in relation to a request made by the Township of Ramara ("Township") under s. 8 of the *Township of Mara Act, 1986* ("Act") for approval of an

amendment to the Township's Lagoon City Parks and Waterways Levy By-law No. 2001.87 ("Approval"). The Approval hearing was held by video ("VH") on September 21, 2022.

[2] Under s. 8 of the Act, properties in Lagoon City that front onto a canal are charged a base levy, which is apportioned to those properties based on formulae set out in the Act and in the Township's By-law No. 2001.87 made pursuant to the Act ("By-law").

[3] At the VH, the Township sought formal approval of an amendment to the By-law under the proposed By-law No. 2021-78 ("Amendment"), which would require that properties licensed to offer short-term rental accommodations ("STRs") be treated similarly to hotels and thus, charged a higher levy than residential properties that do not offer STRs. Under the existing By-law that higher levy paid by hotels is four times the amount of the base levy ordinarily charged to each property in Lagoon City.

PART 1: THE STATUTORY PROVISIONS

[4] Section 8(2) of the Act states that amendments to the By-law apportioning the levy do not come into force until approved by the Tribunal. Interestingly, the Act does not set out any particular test for the approval to be conducted by the Tribunal. However, counsel for the Township proposed that the sole issue to be addressed at the VH was "whether the proposed levy is fair and reasonably justifiable".

[5] In any event, the relevant provisions of the Act are:

1. In this Act,

"Commission" means the "Lagoon City Parks and Waterways Commission" established under subsection 3 (1);

"Corporation" means The Corporation of the Township of Mara;

...

2.(1) The council may by by-law authorize the Corporation to,

- (a) accept conveyances of land and easements in or over land, on a registered plan of subdivision or registered reference plan used or intended to be used for or in connection with a network of waterways and may include private parks, foot-bridges, foot-paths or any of them;
- (b) enter into agreements respecting any conveyance of land or easement under clause (a) and the maintenance thereof;
- (c) manage, maintain, regulate and control any land or easement conveyed under clause (a); and

...

(2) The use of the land conveyed to the Corporation under clause (1) (a) is restricted to those persons contributing to the maintenance thereof under subsection 8 (1) and their tenants, guests or invitees.

...

3.(1) If land or easements are conveyed to the Corporation under clause 2 (1) (a), the council may by by-law establish a body corporate to be known as the "Lagoon City Parks and Waterways Commission" to manage, maintain, regulate and control lands and easements conveyed.

...

5.(1) The Corporation may delegate to the Commission any or all of its powers under clause 2 (1) (c) upon such terms and conditions as may be set out in the by-law.

...

7.(1) The council may by by-law require every owner of land abutting a waterway conveyed to the Corporation under this Act to construct and maintain a shorewall, at the owner's expense, to the specifications and within the time limits set out in the by-law.

...

(3) Where an owner fails to construct or maintain a shore wall in accordance with a by-law passed under subsection (1), the Commission may construct or repair the shorewall, at the owner's expense, if...

(4) An owner may appeal a decision of the Commission to the court of revision established under section 43 of the *Local Improvement Act* by giving written notice to the Commission and to the clerk of the Corporation within fifteen days of receiving notification of the decision of the Commission.

...

8.(1) The expenses of the Commission as set out in the estimates approved by council, including any deficit but excluding the repair and construction of shorewalls, shall be apportioned according to a formula determined by by-law of the council and levied by the Corporation upon property that has as a benefit to the owner thereof a registered right to use the waterways and private parks conveyed to the Corporation under clause 2 (1) (a) in common with other owners of property in the subdivision.

(2) A by-law or an amendment to a by-law passed by council under subsection (1) does not come into force until approved by the Ontario Municipal Board.

(3) Notwithstanding subsection (1), the following criteria apply to the formula determined by council:

1. Each residential unit, regardless of size, value or type of ownership shall be apportioned at the same amount.
2. Vacant lots or blocks of land zoned for single family residential use or having a zoning designation not included in this subsection or in a by-law passed under subsection (1) shall be apportioned at the single residential rate.
3. Vacant lots or blocks of land located within a registered plan of subdivision and subject to a zoning by-law prohibiting the development thereof shall be apportioned at a rate equal to one-half of the single residential unit apportionment.
4. Vacant parcels of land composed of one or more lots or blocks and zoned for multi-residential use shall be apportioned at a rate of two times the single residential rate or at a rate of one-tenth of the number of residential units permitted under the zoning by-law, whichever is greater, until the first year after the year in which a building permit has been issued in respect of the parcel, whereupon the formula established by council shall apply thereto.
5. Vacant parcels of land composed of one or more lots or blocks and zoned for commercial or industrial use shall be apportioned at a rate of two times the single residential unit apportionment until the first year after the year in which a building permit has been issued in respect of such commercial or industrial lands whereupon the formula established by by-law of council shall apply thereto.

...

(6) An owner of land may appeal the apportionment of expenses of the Commission as determined under subsection (1) to the court of revision established by council by giving written notice to the Commission and to the clerk of the Corporation within fifteen days of receiving from the Corporation notice of the amount levied against such owner's land.

(7) The court of revision has jurisdiction and power to review the proposed apportionment of expenses and may correct,

- (a) the names of the owners of the lands;
- (b) the number of apportionable units located on the lands; and
- (c) the number of single residential unit apportionments to be levied thereon.

...

(9) The Commission or the owner may appeal to the Ontario Municipal Board from any decision of the court of revision.

(10) The Ontario Municipal Board has the like jurisdiction and powers as are conferred on a court of revision under subsection (7) and the decision of the Ontario Municipal Board is final.

[all above emphasis added]

PART 2: MATERIALS AND EVIDENCE BEFORE THE TRIBUNAL

[6] The Township filed a Document Book comprising 59 pages and the Witness Statement ("WS") of Cathy Wainman, the Deputy Clerk of the Township, comprising two pages. Ms. Wainman also testified before the Tribunal to provide material fact evidence only.

[7] No other evidence was tendered to the Tribunal and it is to be noted that at the Case Management Conference ("CMC") held on June 14, 2022, no person or organization sought Party status. The single Participant, Terry Ratchev, filed a Participant's Statement which was reviewed by the Tribunal prior to the VH. As noted at the CMC, Mr. Ratchev owns a property in Lagoon City offering STRs and his concerns regarding the proposed increase in the levy were expressed in his Participant Statement.

[8] In her WS and oral testimony, Ms. Wainman, who has been Deputy Clerk for approximately six years but has been with the Township since 2009, stated that:

- (a) Properties in Lagoon City that front onto a canal are charged an annual Base Levy that is derived from the Lagoon City Parks & Waterways Commission ("Commission") annual expenses. The annual expenses are apportioned to properties based on formulas set out in the Act and the By-law;
- (b) The Commission is in agreement with the Township that properties which offer STRs should be treated similarly to hotels/motels located in Lagoon City and therefore, be accordingly charged an increased Base Levy;

- (c) Pursuant to the Act, the By-law received approval from the Ontario Municipal Board (“OMB”) in a one-page Decision dated December 31, 2001 (contained in the Document Book) and the proposed increased Base Levy constitutes an amendment to the By-law which now requires approval from the Tribunal;
- (d) The current Base Levy is \$651 for each residential unit in Lagoon City. The single hotel located in Lagoon City pays a rate that is four times that Base Levy, being \$2,604.00 plus an additional amount comprising one third of the Base Levy. This is pursuant to section 1 (e) of the By-law as approved by the OMB in 2001, which states:

A hotel or motel, with or without retail commercial facilities, boat slips or mooring facilities shall be apportioned at a rate of four times a Base Levy plus one-third of a Base Levy for each hotel rental unit provided in the said hotel or motel.
- (e) There are eight residential units in Lagoon City licensed by the Township to offer STRs and the proposed Amendment seeks to impose on those STR units the same \$2,604.00 levy being paid by the hotel (although not the additional one third assessment described in (d) above);
- (f) The Commission and the Township's Council determined that since under their licenses, the STR units are able to be rented on a full-time basis to tourists and others, then it was fair and reasonable to in effect treat them very much the same as hotels under the By-law – the exception being that hotels would still pay an additional charge of an extra one third of the Base levy;
- (g) The determinations of the Commission and the Township Council are captured in various meeting minutes contained in the Document Book provided at the VH; and,

- (h) Ms. Wainman is also the Secretary to the Commission and as such, was able to testify as to the Commission's deliberations.

[9] The Tribunal found Ms. Wainman to be a forthright and articulate witness, and accepted her account of the relevant facts and circumstances related to this proceeding. There was no contrary evidence tendered to the Tribunal. Nonetheless, the Tribunal did ask Ms. Wainman to address some of the concerns set out in the lone Participant Statement and she did so satisfactorily.

ANALYSIS AND CONCLUSIONS

[10] As noted in paragraph [4] above, counsel for the Township submitted that the sole issue to be addressed at the VH was "whether the proposed levy is fair and reasonably justifiable" as set out in the Amendment. This test is not expressly set out in the Act, as is evident from a consideration of excerpts of the Act set out in **Part 1** above. However, in the Tribunal's view, upon a review of the scheme set out in the Act as a whole, the notions of a rational, reasonable and fair process for the establishment of levies based on an apportionment of relevant costs and expenses are certainly well-described. Moreover, the By-law approved by the OMB in December 2001, clearly enshrined the basis for increased levies upon hotel and motel properties in Lagoon City.

[11] The Tribunal notes that the provisions of the Act excerpted in **Part 1** do contain appeal mechanisms in relation to the activities of the Commission and the Township in relation to the establishment of levies on properties located in Lagoon City. However, there was no evidence before the Tribunal to indicate whether the Commission's activities in this regard had ever been the subject of such appeals.

[12] Moreover, the factual account of the relevant history provided by Ms. Wainman was not challenged – unsurprisingly, since no property owner in Lagoon City sought formal Party status in order to offer testimony or to otherwise call any evidence to contest the facts or decisions taken by the Township or the Commission. The sole

written Participant Statement does not, of course, constitute such evidence and it is unclear why none of the property owners offering STRs did not seek to actively participate in this proceeding to offer testimony or to provide contrary, relevant evidence – if in fact there were owners who believed the Commission and the Township had acted incorrectly in seeking the Amendment.

[13] The Tribunal therefore concludes that based on the evidence provided at the VH, and a review of the Act, the By-law and the proposed Amendment: (a) there is a rational basis for the provisions in the Amendment which seek to impose increased levies on the owners of STRs that are comparable to those charged on hotel and motel operators in Lagoon City; and (b), it is fair and reasonable to establish such increased levies.

ORDER

[14] The Tribunal orders that By-law No. 2021.78 of the Township of Ramara amending the Township's existing Lagoon City Parks and Waterways Levy By-law No. 2001.87 is hereby approved.

“William R. Middleton”

WILLIAM R. MIDDLETON
MEMBER

Ontario Land Tribunal

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.