

Subject: Inquiry Regarding Municipal Bylaws and Home Swaps and advertising on Pet Sitting Sites.

July 23, 2024

Dear Mayor Crompton and Council Members,

I am reaching out to provide an update following our previous correspondence and to seek clarity on an important matter affecting Whistler homeowners.

Subsequent to our last communication, we have actively participated in the adjudication process concerning the Bylaw Fine Infraction Notice issued to us for Operating a Tourist Business related to a listing on a non-monetary transaction home swap platform. Unfortunately, the charge was upheld, and we have been penalized with a \$500.00 fine.

The spike in fines for non-compliant short-term rentals has amplified our concerns about the classification of home swaps as tourist accommodation businesses. We are grappling with the definition of lawful activities within the sphere of short-term rentals and the collaborative economy.

We recently engaged with a council member to seek guidance regarding potential bylaw violations linked to advertising on a pet sitting platform. Despite our efforts in seeking clarification during our meeting, we are yet to receive a definitive resolution. Given our upcoming absence in September and our desire to advertise on a pet sitting site we urgently seek clarification to ensure compliance with municipal regulations and prevent any fines or penalties.

As responsible inhabitants of Whistler, we are dedicated to adhering to municipal bylaws, but we earnestly require clear directives to guarantee compliance. We believe that transparent communication and cooperation can facilitate a solution that accommodates the interests and obligations of homeowners like us.

For your reference, here is an overview of the updated information pertaining to the provincial legislation for exempt accommodation service providers:

****Exempt Accommodation Service Providers****

The principal residence requirement is designed to repurpose more units currently utilized for short-term rentals into permanent residences for inhabitants. Specific types of accommodations are exempt from this requirement due to their intended purpose or limitations that render them unsuitable for long-term habitation. The following are examples of exempt accommodation service providers:

Mayor and Council
Resort Municipality of Whistler
4325 Blackcomb Way
Whistler, BC V8E 0X5

May 15th, 2024

Background:

We recently read in the Pique that the council has unanimously approved increased fines for non-compliant short term rentals. While late in the process, can Council request clarity on how Bylaw Enforcement personnel are defining what a short term rental is? It appears that enforcement personnel are stretching the interpretation of the Tourist Accommodation Regulations Bylaw beyond what the Whistler homeowners generally understand i.e. AirB+B type rentals into areas such as non-commercial home swaps. With the increase of the \$500 fine to a \$5000 fine we believe a bylaw enforcement review should be conducted, with a public information campaign, before initiating enforcement.

We recently received a Bylaw Fine Infraction Notice charging us with Operating a Tourist Business and a fine of \$500 for participating in a non-monetary transaction home swap platform. Regardless of the fact that in this particular instance we had a friend and Whistler Municipal employee staying in our home for a week pet sitting, we were charged based on having a personal profile on a home swap platform. We, like over 135 current Whistler homeowners have our profiles on one of the many home swap web platforms and have arranged home swaps, once or twice a year for a week long period in our primary residence not understanding that this type of action is now considered illegal. We have disputed the charge and are awaiting a hearing on June 3rd. We will accept whatever outcome is determined. However we believe Bylaw Enforcement personnel are overreaching by trying to include home swaps into the same category as AirB+B accommodation businesses. It is going to come as a surprise to many Whistler homeowners who enjoy a home swap once or twice a year with their primary residence to possibly receive an unexpected \$5000 bylaw infraction notice.

We are only looking for clarity for what is legal and what is illegal. If home swaps are now considered short term rentals thereby illegal, do we have to assume that using a pet sitting platform to arrange an individual to stay in our primary residence looking after our pet as a short term rental is thereby illegal? Do we have to worry that if we allow non-resident friends to house sit while we are on vacation that this is considered a short term rental and thereby illegal?

Our formal request to Council:

Our concern stems from the classification of home swaps as part of a tourist accommodation business under the 2017 Tourist Accommodation Regulation Bylaw (TARB). We firmly believe that considering home swaps, which are personal and non-commercial arrangements, as a violation of the bylaw is unjust and should be reconsidered.

Overview

Our concern focuses on the interpretation of Section 4 of the TARB concerning home swaps. As retired

homeowners, our home exchanges are for non-commercial, personal use only. These exchanges involve temporary stays in each other primary residences without financial transaction, making them distinct from traditional for-profit accommodation services.

Key Arguments

1. Interpretation of TARB - Section 4:

The lack of clarity in the bylaw regarding the unique nature of home swap arrangements, which do not involve commercial intent or monetary gain, is a significant concern.

2. Legal Considerations:

Home swaps differ substantially from commercial accommodations due to their non-commercial motives, absence of financial transactions, and personal nature, which sets them apart from profit-seeking lodging businesses.

3. Non-Commercial Nature:

Home swaps operate on a model of shared experiences rather than for-profit lodging services, diverging from traditional tourist accommodation businesses.

We assert that the current interpretation of the bylaw by the Resort Municipality of Whistler inaccurately labels home swaps as illegal tourist accommodation activities. Considering the absence of clear language in the existing bylaw to encompass home swap arrangements, we request a transparent review and potential amendment to prevent further legal ambiguities for Whistler residents engaging in similar practices.

The Resort Municipality solely relies on Section 4 of the Tourist Accommodation Regulation Bylaw [TARB] to enforce this charge. Unless the bylaw undergoes modifications or clarifications, it risks penalizing homeowners engaging in customary home swap practices unknowingly violating the law.

We urge the Resort Municipality of Whistler to conduct a thorough review of the bylaw and engage in public consultations to ensure that expanded enforcement aligns with the practices and expectations of Whistler primary homeowners.

Thank you for your consideration.

Anette and Ken Martin

Whistler primary homeowners and long term Whistler residents

Whistler, B.C.

