

Case Study  
In Support of Presentation of London Neighbourhood  
Community Association (LNCA)  
To  
Town & Gown Committee  
May 8, 2014

The London Neighbourhood Community Association is seeking clarification and amendment to its by-laws to make it clear that the occupation of homes located in R-1 zoned areas be **limited to single-family and Lodging House, Class 1 uses only**. This latter designation provides that homes in an R-1 area as defined under the City's Z-1 Comprehensive Zoning By-law, restricts occupation to 3 or fewer unrelated individuals where none of those individuals is the registered owner.

The current Z-1 provisions already provide that no home in an R-1 Single-Family Residential area can be used as a Class 2 Lodging House (more than 3 unrelated individuals) yet the City continues to allow such lodging houses to proliferate throughout R-1 zoned areas, particularly in the Near Campus Neighbourhoods in close proximity to the Western University and Fanshawe College. It does so to the detriment of residents of these areas. Not only does the City fail its residents not enforcing its own zoning by-law but it attempts to "license" the occupation of rental properties (sometimes in the face of a zoning conflict) through its Residential Rental Units Licensing By-law. As a result this by-law is ineffective to create anything greater than "lipservice" to a perceived community need, (with no attempt to address real-life concerns). The provisions of the licensing by-law itself are so deficient and its administration so lax as to result in lending 'legitimacy' to occupancies that are clearly illegal, thereby further exacerbating an already confusing and contradictory backdrop of existing legislation..

**The Case of 312 Huron St.**

The case of 312 Huron Street provides a clear example of the types of abuses which have been allowed to exist under the current administration. In fact, it demonstrates how its owners have been benefitted by the legitimization of occupancy through the licensing process where a license should never have been issued in the first place. Here, occupancy by tenants of the current owners has been, from the outset, in violation of the R-1 zoning designation..

The facts which LNCA has been able to glean through investigation and public records indicate the following:

- 312 Huron St. was always occupied by a single family prior to its sale to the current owners in mid- 2012.

-To the time of sale, as confirmed by the vendor to the current owner, the original construction of the home had been maintained with its original 4 bedrooms.

-In mid-2012 the new (current) owners, both residents of Toronto, obtained a building permit from the City of London. The online database maintained by the City indicates that the permit was issued to “alter to refinish existing finished basement, create new opening in concrete wall to utility room and increase one window size.” No mention is made of the addition of 2 basement bedrooms.

-Shortly thereafter, in mid-2012 the City’s online database again indicates that a Rental License was granted to the owners on the basis that there were 6 bedrooms located in the home. LNCA has since learned that the application was brought and approved on the basis that 6 bedrooms predated amendment to the zoning by-law, and that this, therefore, “grandfathered” such use by the current owners. Currently, the definition of a “dwelling unit” limits the number of bedrooms to no more than 5.

-As part of the licensing process owners are required to submit a Fire Inspection Report. LNCA has learned from Fire Marshall, Catherine Langstaff, that at the time of her inspection 5 individuals were resident at this address. **Since neither of the owners were included in this number, occupation by 5 unrelated individuals who rented from the owners constituted use as a “Lodging House, Class 2” under the provisions of the Z-1 Zoning By-law, and therefore not, and never a permitted use in an R-1 zone. Notwithstanding that s 6.2 (h) of the Residential Rental Units Licensing By-law requires compliance with all applicable zoning by-laws, a rental license was issued by the License Manager** in circumstances where it must be expected that he would have known that, from the outset, the subject property could never have complied with the zoning by-law.. At a minimum, it would appear that no attempt was made to verify the information provided in even the most casual way. In this respect, the entire licensing process seems flawed as it appears to be based on a “self-disclosure” model (always fraught with opportunities for dishonesty and non-disclosure.)

-Evidence is, and has always been available from the immediate prior owner, and from neighbours familiar with the property, that until its occupation by tenants of the current owner, the property was always occupied as a 4 bedroom home by its registered owner (single family residence) and in no other fashion.

-Since its occupation by tenants of the current owner this property has been a continuing source of difficulty for the community. It has been the location for wild parties, noise complaints and all of the other problems typically associated with young irresponsible tenants occupying rentals in the vicinity of Western University.

- In March, 2014 as a result of complaints made by residents, LNCA made enquires of the Fire Department and has learned that 8 individuals unrelated to the owners of the home, were resident there. This fact has since been confirmed by the City’s own staff.

- On March 18, 2014 the City's Property Inquiry System reveals that the City revoked the Rental License for this address. LNCA understands that the matter is now under investigation.

### **Other Properties in Violation of the Zoning By-law where Licenses Issued**

It is believed that 312 Huron St. is not an anomaly in the application of either the zoning or licensing by-laws. In fact, in the very short block of Waterloo St. between Huron and Regent Sts it is believed that there are at least 2 properties which have been occupied in contravention of the Single-Family zoning designation, or where a Licensing Permit, if obtained at all, was under fraudulent circumstances. In fact, a casual drive through virtually any neighbourhood in the area will reveal home after home where there appears to be some violation of the zoning by-law.

The reasons for this proliferation of problems are many, but certainly include the following:

- a failure of the administration of the City of London, its by-law enforcement department, its Rental License Manager, and legal department, to apply the provisions of its own zoning by-law to protect the residents of the single-family residential areas. Residents have purchased their homes and have chosen to live in these areas with the expectation, and right to anticipate that City Officials will apply the law for the benefit of the community- the very people who (through their tax dollars) pay their salaries. Instead, enforcement seems to be entirely lacking.

- a failure by the City of London to pro-actively provide a public education program to prospective students and their parents to ensure understanding of the zoning and rental by-laws as it affects both tenants and neighbours.

- a complete failure by Western University to perform its duty (moral if not legal) to educate its student renters to understand the effects and expectations of the zoning by-law when seeking off-campus housing, and particularly how their personal situation could be detrimentally impacted by a license revocation during the school year. (Western University has been hiding in the weeds for years on these issues, always claiming that it has no responsibility for the actions of students while off-campus). This is indeed a pathetic and irresponsible position for an institution which we have entrusted to teach our children life expectations, including the concept of accountability.

- a failure of the Rental Licensing Act, and its administration to hold landlords accountable and to ensure that the information-gathering process on license application is complete and probes both the veracity of the applicant and provides information from which fraudulent and improper applications can be weeded out before a license is granted. For example, the legislation could require, as a condition of licensing that the applicant provide:

-proof that the property is properly insured for tenant occupation. This would provide some additional level of protection to prospective tenants who are otherwise vulnerable if insurance coverage is denied to them in the event of loss. It would also mean that insurers would more closely scrutinize rental properties for structural and other deficiencies, thereby providing an additional safety aspect. (There is concern with respect to many of these properties that they are either uninsured or insured only under inappropriate residential policies.)

- a new, up-to-date Fire Inspection Report (not one up to 2 years old!!!)

- a new up-to-date Report from the Electrical Safety Authority confirming that all electrical wiring is up to code.

With this information on file, the City would be in a much better position to identify problem properties. If this information was made publically available, as an additional aspect of full-disclosure and to which the applicant must agree, this would assist residents in monitoring activity at problem houses.

**What Acceptance and Implementation of the LNCA Recommended Motion will achieve:**

- a clear acknowledgement, if one is really needed, that the occupation of a single-family residence by more than 3 unrelated people, none of whom is the owner, is a clear violation of the Z-1 Zoning By-law and one which taxpayers expect the City to enforce.

- remove forever, any attempt to argue that the decision reached in the **Howden** case, the landmark legal determination, does not apply to London's zoning by-law on the basis of minor, inconsequential differences in wording. If necessary, it is within the City's power to clean up its own by-laws to ensure that Howden *does and must* apply and as residents of this City we have the right to expect that whatever may be necessary to make that happen will, in fact, be done.

Respectfully Submitted on behalf of the London Neighbourhood Community Association

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