



# STAFF REPORT

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September 9, 2010

File No.: HO-OCP-2009.2

To: Hornby Island Local Trust Committee

**From:** Brodie Porter  
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Northern Team

Miles Drew  
Bylaw Enforcement Coordinator

**CC:** Chris Jackson

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**Re: STVR Enforcement Policy**

## THE PROPOSAL:

The issue of Short Term Vacation Rentals has gone through a series of discussions. Sometimes as discussions unfold, the objectives are lost or set aside and the discussion focuses on symptoms or means to resolve perceived immediate issues without examining long term consequences or the original objectives. The purpose of this report is to go back to the original objectives, examine if they are still valid, and if not examine alternatives and the consequences of those alternatives. Staff believes this is a pre-requisite to any further discussion on the issue.

## THE STARTING POINT – THE OCP

The OCP is a statement of policy that is intended to guide land use decisions on Hornby Island. Key directions established by the OCP are:

1. protection of the natural environment and community resources – Broad community objectives 1, 2 and 3
2. encouragement of a self reliant community – Broad community objective 5
3. that change is gradual and sustainable – Broad community objective 6
4. to promote a residential development pattern consistent with rural character  
Broad community objective 7.

These broad objectives are restated in many sections of the OCP where the specific issues are addressed.

It is also noted that in the Home Occupation section of the OCP there is reference to a policy 6.5.3.7 that states:

“The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests shall be permitted as a home occupation. The

home occupation shall be operated in accordance with land use bylaw and with guidelines prepared by the LTC in consultation with the community.”

OCP policy 6.5.3.1 states that a home occupation means an occupation conducted by a full or part time resident of the lot and that the home occupation must be clearly incidental to the use of the dwelling for residential purposes.

The reference to “incidental” does not authorize a relationship in time, but rather in proportion to the permitted use by its character, size or nature. A home occupation must be incidental at any point in time and not become “non-incidental” for a portion of the year.

Policy 6.5.3.7 gives recognition to rental of dwellings as a home occupation and must be read not in isolation of other policies, but in the context of the overall OCP and the competing objectives that arise in any such planning document. The broad community objectives therefore apply to any consideration of implementation of policy 6.5.3.7.

## **THE OPTIONS**

In an effort to focus the discussion regarding short term vacation rentals it is suggested that the following three statements reflect options that have been discussed or are available under current regulation or policy: It is not intended that these statements be definitive and they are certainly subject to critical comment. They are offered though to help map a discussion and proponents could choose one of the three statements that best aligns with their personal objectives as a means of facilitating constructive discussion. It is important in these discussions that there is clarity of understanding of objectives.

### **Option 1 – Current LUB**

**Residential character is to be retained that supports social, economic and environmental wellbeing and does not allow STVRs.**

### **Option 2 – Current OCP modified with some incidental full time STVR occupancy**

**Residential character is to be retained that supports social, economic and environmental wellbeing and proposes STVRs as a home occupation. The STVR must be incidental to residential use of the property and be conducted by a full-time or part-time resident of the lot.**

### **Option 2 – Greater Flexibility for STVRs**

**Residential character is to be modified to support social and environmental wellbeing while allowing for greater economic opportunity.**

The next few pages contain a table that lists the three options and attempts to outline scenarios that can arise.

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	<b>Option 1 CURRENT LUB</b>	<b>Option 2 CURRENT OCP HISTORICAL PATTERN UNTIL INTERNET</b>	<b>Option 3 FLEXIBILITY FOR STVRs</b>
<b>General Description</b>	<ul style="list-style-type: none"> <li>• owner or tenant occupied residential use</li> <li>• residential character to area</li> <li>• sense of community (occupants and neighbours get to know or recognize each other)</li> <li>• occupants part of and contribute to larger Hornby community and economy</li> <li>• opportunity to achieve economic gain through owner/tenant occupied use of residence for home occupation</li> <li>• relationship of resident to B &amp; B visitor</li> <li>• no economic motivation for STVR as no lawful ability for STVR.</li> <li>• home occupation activity is incidental to residential use</li> </ul>	<ul style="list-style-type: none"> <li>• owner or tenant occupied residential use or periodic visitor occupancy, often by owner's friends and relatives.</li> <li>• greater opportunity for repeat visitors</li> <li>• incidental use for visitor occupancy conducted by resident.</li> <li>• sense of community (occupants and neighbours generally get to know or recognize each other)</li> <li>• occupants generally part of and contribute to larger Hornby community and economy</li> <li>• opportunity to achieve economic gain through owner/tenant occupied use of residence for home occupation.</li> </ul>	<ul style="list-style-type: none"> <li>• possible greater intensity of occupancy by visitors</li> <li>• some lack of relationship of visitor to neighbours especially with one-off visits</li> <li>• possible repeat visitors but greater opportunity for one-off visits</li> <li>• one-off visitors may not be aware of local economy and may bring goods with them.</li> <li>• no other economic contribution to community (i.e. displaces opportunity for other home occupation on site if high frequency of STVR use)</li> <li>• income to owner spent off island as owner not present on island.</li> <li>• less opportunity for relationship between owner and visitor. Third party management further</li> </ul>

	Option 1 CURRENT LUB	Option 2 CURRENT OCP HISTORICAL PATTERN UNTIL INTERNET	Option 3 FLEXIBILITY FOR STVRs
		<ul style="list-style-type: none"> <li>• some of income to owner spent on island when owner is present on island</li> <li>• relationship of resident to visitor, whether B&amp;B or STVR</li> <li>• economic motivation to cover some costs of retaining a primary or second summer residence</li> <li>• low key advertising by word of mouth or classified ads</li> <li>• some displacement of occupancy from commercial accommodation properties.</li> <li>• use is incidental if practiced as a home occupation with resident also occupying the property, but otherwise can be addressed through enforcement policy.</li> </ul>	<p>separates visitor from owner and community.</p> <ul style="list-style-type: none"> <li>• fee to off island manager not spent in local economy.</li> <li>• greater potential to be a full commercial operation motivated by profit and return on investment.</li> <li>• enhanced advertising creating greater sense of commercial character.</li> <li>• possible visitor attitudes to commercialization are one of expectation of product for payment rather than contribution to enhance the product as part of the community (I am paying big bucks for this house so I am going to get the most I can for my buck – let others take care of the environment- I probably won't be returning to Hornby again anyways)</li> <li>• profit motive potentially inflates STVR occupancy cost thus diminishing opportunity for some</li> </ul>

	<b>Option 1 CURRENT LUB</b>	<b>Option 2 CURRENT OCP HISTORICAL PATTERN UNTIL INTERNET</b>	<b>Option 3 FLEXIBILITY FOR STVRs</b>
			visitors to come. <ul style="list-style-type: none"> <li>• greater displacement of occupancy from commercial accommodation properties</li> </ul>
<b>Possible Outcomes</b>	residential character is retained. If owner is away for extended periods they can rent to a tenant for 30 + days.	<ul style="list-style-type: none"> <li>• status quo is retained if enforcement policy is in place to address extreme behaviours; safety issues or extreme use as STVR that undermines residential character or area.</li> <li>• implementation in LUB as a home occupation is possible provided owner resides on property and use is incidental to residential use in terms of % area of dwelling used.</li> <li>• if implemented in LUB, as a home occupation then law of non-conformity applies if use taken out of bylaw.</li> </ul>	<ul style="list-style-type: none"> <li>• can only be authorized by OCP and LUB amendment</li> <li>• if authorized by bylaw then law of non-conformity will allow use to continue, even if community wishes to later limit such activity</li> <li>• commercialization of residential areas. Residential character is diminished or lost.</li> <li>• complaints re performance of occupants may increase, but not within authority of LTC to address by bylaw.</li> <li>• possible issues of compliance with Trust Policy Statement</li> </ul>
<b>Consistency with OCP Objectives</b>	Does not collide with OCP policy	Consistent with OCP policy	Requires rewrite of OCP broad objectives and policies as inconsistent with

	<b>Option 1 CURRENT LUB</b>	<b>Option 2 CURRENT OCP HISTORICAL PATTERN UNTIL INTERNET</b>	<b>Option 3 FLEXIBILITY FOR STVRs</b>
			<p>objectives re:</p> <ol style="list-style-type: none"> <li>1. protection of the natural environment and community resources</li> <li>2. that change is gradual and sustainable</li> <li>3. to promote a residential development pattern consistent with rural character</li> </ol> <p>May also be inconsistent with objective of a self reliant community if owner is predominantly living off island.</p>
<b>Ability of LTC to Address Issues</b>	LTC can regulate in LUB and enforce or enforce under guidelines of an enforcement policy.	LTC can manage through combination of LUB and enforcement policy. Performance and safety issues can be a trigger for enforcement of STVR that is not a permitted home occupation.	LTC can permit though LUB but enforcement policy no longer applicable as LUB permits use. Performance and safety issues not addressed as no trigger to apply.

## STAFF COMMENTS:

Staff suggests that the fundamental decision must be made as to whether the current OCP broad objectives are to be upheld or whether they should be subject to change to accommodate STVR use on a permitted and broader basis.

If existing OCP broad objectives are to be upheld either through Options 1 or 2, then a Bylaw Enforcement Policy can be used to assist the Local Trust Committee and the Hornby Island Community in managing STVR use.

If a more flexible approach as has been discussed is to be considered then staff suggests that OCP amendments are required to accommodate such initiatives and that an enforcement policy may not be of such assistance in that situation.

## RECOMMENDATIONS:

THAT the Hornby Island Local Trust Committee either confirms existing OCP broad policies or request changes to such policy prior to continuing discussion regarding STVR enforcement policy.

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Prepared and Submitted by:

Miles Drew  
Brodie Porter

September 15, 2010

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Brodie Porter and Miles Drew

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Date

Concurred in by:

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Date