

Bylaw Enforcement on Denman

This month I'm going to be brave and write about bylaw enforcement. It can be a contentious issue, but avoiding it doesn't make sense. And it's topical, because at its May meeting, the Denman Island Local Trust Committee (LTC), the island's land use planning body, made a decision to authorize proactive enforcement on unlawful short-term vacation rentals (see questions 8 and 9, below, for more info on this). Here goes:

1. Why have bylaw enforcement?

Denman Island's land use bylaws are intended to protect the environment, support a vibrant, healthy community and promote community goals. A considerable amount of community discussion, research, analysis and consultation goes into creating our bylaws, and revising them as needed to respond to a changing world. Bylaw enforcement is meant to ensure that this process, and the resulting regulations, are respected.

2. How is bylaw enforcement initiated?

Like all local governments, the Islands Trust uses a complaint-driven process. Bylaw enforcement officers are not patrolling the island or making random inspections.

Anyone, resident or visitor, can register a complaint with the Islands Trust via the website, phone, email or snail mail. Complaints can't be made anonymously, but the complainant's identity is kept entirely confidential.

An investigation can be initiated without a complaint when it involves damage to ecosystems, is part of a permitting process, is noted in an advertisement, is part of a referral from another agency, or is directed by an LTC (see question 7, below).

What happens after a complaint is made?

First of all, the complaint is reviewed to determine if it warrants an investigation. If it clearly connects to an LTC bylaw, and raises valid concerns, then a bylaw enforcement officer takes on the case. This usually begins with a letter informing the property owner that a bylaw violation may exist and an invitation to phone the bylaw enforcement officer. Subsequently, a site visit may be necessary.

The goal of bylaw enforcement is to move the situation to compliance. It is not generally a punitive system but instead relies on communication (bylaw enforcement officers are trained in conflict resolution and negotiation skills).

Often, the bylaw enforcement officer will negotiate a plan with a time-line for voluntary compliance. This plan may accommodate unusual circumstances (such as a personal situation, seasonal or financial constraints, or housing pressures) that call for extra time to comply. On the other hand, if the violation is serious and ongoing, the Islands Trust may take immediate legal action.

3. What if voluntary compliance is not happening?

In this case, the bylaw enforcement officer may recommend that the LTC approve legal action. This is reserved for only very serious or long-term issues, because it is a very expensive, slow-moving process, and the outcome is uncertain. However, the Trust has successfully used the courts numerous times to enforce its bylaws.

4. What is proactive enforcement?

This term describes situations when an LTC will formally call for bylaw enforcement on a specific issue, even without complaints. This usually happens when there are widespread concerns about consistent violations. It is not aimed at any individual landowner but rather at a class of uses.

5. Why did the Denman LTC authorize proactive enforcement on short-term vacation rentals (STVRs)?

STVRs (the rental of a whole home for short holiday stays) are not legal on Denman Island; our Official Community Plan (OCP) states that commercial accommodation should primarily be offered *only* in a portion of a home and only when the operator is living there. This serves a community vision of tourism that remains small-scale and low-impact, and encourages meaningful connections with the Denman community.

Tourism, says the OCP, should "be managed in a way that respects our community's foremost function as a home for its residents."

Local trustees have been hearing concerns about the impacts of STVRs. We've heard about noise, traffic, parking and water issues. We've also heard concerns about the potential impact STVRs may be having on long-term rental housing availability, a concern that is highlighted in Denman's soon-to-be released 2018 Housing Needs Assessment.

STVR regulation is a challenging topic right now for most local governments, especially in places that are attractive to tourists, due mainly to the rise of Internet marketing platforms such as Air BnB. Numerous other local governments in BC and several other islands in the Trust Area have moved ahead with proactive enforcement.

Naturally, this is not generally welcome by the STVR operators, who will often point out that their operation is small scale and not causing any trouble. However, bylaws are concerned with cumulative impacts and an overall vision for the island.

6. How will the proactive enforcement work?

Bylaw enforcement staff will rely mainly on advertising to track down potentially illegal vacation rentals, and move



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forward as described above. STVR operators will be offered options for adjusting their operation to bring it into compliance, and allowed a timeline to either become legal, or to wind up their business. The LTC agreed that its goal is not to disrupt this summer's visitor season, but rather to ensure that, over the long term, the land use activities on Denman match the will of the community, as laid out in the Community Plan and the Land Use Bylaw.

Questions and comments?

Contact your local trustees: Laura Busheikin at 250-218-3216 or lbusheikin@islandstrust.bc.ca and David Critchley 250-335-3244 or dcritchley@islandstrust.bc.ca.


More info:

Bylaw enforcement:
<http://www.islandstrust.bc.ca/islands/bylaw-enforcement/>

Denman Island Official Community Plan and Land Use Bylaw: <http://www.islandstrust.bc.ca/islands/local-trust-areas/denman/bylaws/>

Visitor accommodation regulations (this links you to an article written 2015, when the LTC reviewed these regulations):

<http://www.islandstrust.bc.ca/media/312945/Visitor-Accommodation-Review-Backgrounder-May-2015-.pdf>



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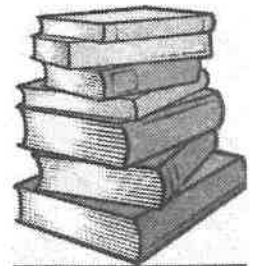
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And we welcome TACHI BARKER as the new owner!

Past owners Juan, Leslie, Corinne and Sean wish her the best AND invite you to support her in her new business.

As we sail off into the sunset, we THANK EVERYONE WHO HAS SUPPORTED US OVER THE PAST 20+ YEARS.

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