

April 28- 2011

Ministry of Municipal Affairs and Housing
Attention
James Ross-Coordinator, Policy and Legislation
Dear James

Re: Requirement for Building Permits for Structure Built over Lake Beds In Ontario

This is a request to clarify the legal requirement for contractors to obtain and municipalities to require that building permits are or are not required for the construction of structures such as either one or two storey boathouses located "in water" on Lakes in Ontario.

BACKGROUND

I have noticed on MMAH web site the follow wording:

- *Ontario Building Code helps builders and developers do their jobs and helps keep Ontarians safe...*
- *Ministry of Municipal Affairs and Housing is responsible for administering the Building Code*
- *Municipalities, conservation authorities are obligated to enforce the provisions of the Code in their communities*
- *Builders have a role in ensuring that all buildings are constructed in compliance with the Code's requirements*

My Situation

I reside on Jack Lake which is located within two municipal jurisdictions being North Kawartha and Havelock Belmont Methuen. As an area Real Estate Broker with active interest in waterfront development issues, it is important to me to be knowledgeable about jurisdictional issues affecting my clients considerations in both buying and selling waterfront properties.

North Kawartha Twp

I understand from discussion with the building department that boathouses being built on Stoney Lake located within North Kawartha are constructed without any building permit under the OBC and the municipal building department takes the position that such structures located on the waterbeds beyond the high watermark are outside municipal jurisdiction. In my opinion this is wrong and sense the township is relying advice from their solicitor which I disagree with. In 1996 I appealed a proposed comprehensive zoning bylaw for various reasons including the fact the township refused to zone the lakes. That appeal was settled following an OMB prehearing conference with certain significant

concessions to satisfy my concerns but the jurisdictional issue related to zoning water bodies was not resolved at that time.

Stoney Lake is within the jurisdiction of the Trent Severn Waterway (FEDERAL) and since the boundary of the Otonabee Region Conservation Authority is uniquely in Ontario based on a political boundary up the middle of Stoney Lake .. there is no conservation authority jurisdiction on Stoney lake within North Kawartha. Boathouses being built on Stoney Lake are supported on the bottom of the lake owned by the federal government.

Question one

For boathouse structures one and two storey being built in water supported by and occupying federal lands on Stoney Lake with North Kawartha Township –is a building permit required under the Ontario Building Code?

Havelock Belmont Methuen Township

For some time I have been in discussions/debate with the Council on the matter of jurisdiction relative to permitting boathouses to be built in water beyond the high water mark. Certain lakes within this township are under the jurisdiction of the Crowe Valley Conservation Authority. Jack Lake is not under jurisdiction of any Conservation Authority.

In April 2009 the council had a statutory public meeting under the Planning Act related to proposed bylaw dealing with various waterfront zoning provisions. At that time I made a written and verbal submission including a request that the township zone the lakes to regulate structure being built supported on the bottom of lakes owned by the Province of Ontario. This matter of jurisdiction to zone lakes was debated at that public meeting between myself and the council and their planner. Council supported by their planner took the position that the municipality did not have jurisdiction to zone the lakes and in fact shockingly included in their proposed bylaw the following:

Boathouses or boat ports or any portion thereof, which are located over reclaimed lands or known lake/river beds, are considered to be beyond the jurisdiction of the Township; and therefore are not the subject of municipal regulations nor the issuance of a building permit.

The council subsequently did pass a bylaw containing this provision which I appealed to the OMB. The Council decided not to defend the bylaw and repealed it denying me the opportunity to challenge whether the Township in fact has the authority to zone lakes and whether in fact a building permit is required under the Ontario Building Code.

Question Two

For boathouse structures, one and two storey being built in water supported and occupying provincial lands on Jack Lake within North Kawartha Township, is a building permit required under the Ontario Building Code?

I am including some pics of a boathouse built in 2008 on Kassahbog Lake in Havelock Belmont Methuen Township without a permit based on Municipal council and staffs position that no building permit is required beyond the high water mark. ([see update below](#))

Ambrose Moran

As an individual and not representing any group



Update

Clarification was requested of Havelock Belmont Methuen as to whether they did or did not issue a building permit for this boathouse—after about 4 months the twp finally respond via e mail on December 16 2011 that the former Chief Building Official did issue a building permit for this boathouse in 2008 but no further building permits have been issued for in water boathouses including the recently constructed in water boat house on Jack Lake – based on verbal legal advice to the former Township Chief Administrative Office and Former Chief Building Official.