

Aug 7 2011

Rick Bartolucci MPP

Minister of Municipal Affairs and Housing

17th Floor 777 Bay Street

Toronto Ontario M5G 2E5

**Re: Ontario Building Code Permit Requirements for In Water
Development/Boathouses**

UNBELIEVABLE is the response when I explain the following to cottagers.

Last week, on Jack lake, within Havelock Belmont Methuen Township in Peterborough County, construction commenced on a very large in water boat house structure. This construction work is proceeding without any permit from the Federal Government, provincial Government or the Municipality of Havelock Belmont Methuen. As you can appreciate there is a lot of "HOW COME" questions being asked as anxiety levels are being raised with recognition that our area lakes are exposed to and threatened by UNREGULATED in water development.

The Province of Ontario in keeping with the Provincial Policy Statement objectives to protect water quality of lakes has pressured area municipalities through the County Official Plan policies to restrict development within 30 meters of the high water. Your Ministry has approved the County of Peterborough Official Plan imposing the 30 meter set back requirement which is now entrenched in local zoning bylaws.

Despite this provincial initiative to protect water in area lakes, waterfront land owners in this area appear to be permitted to construct large in water structures out in the lakes **WITHOUT ANY PERMITS**. My assessment of this issue is based on four factors

1. Understaffed Fisheries and Oceans organization responsible for administration of the Fisheries Act
2. Loophole in the free use policy under Provincial Public Lands Act administered by Ministry of Natural Resources
3. Claims by the Municipality of Havelock Belmont Methuen that they as a municipality do not have jurisdiction to regulate in water development through the Planning Act zoning.
4. Claims by the Municipality of Havelock Belmont Methuen that structures built on the bottom of lakes owned by the Crown (province of Ontario) **are beyond the scope of the Ontario Building Code**. The following is from an e mail received through the Chief Building office for Havelock Belmont Methuen July 14 2011

The following message is sent on behalf of Travis Toms, Chief Building Official, Township of Havelock-Belmont-Methuen:

The following will respond to your question, "Are building permits required under the Ontario Building Code for large in water boat houses being built with foundations supported on bottom of lakes which are owned by the Province of Ontario?":

It is the position of the municipality that any structure being built with foundation supported solely on bottom of lakes which are owned by the Crown is **beyond the scope of the Building Code Act** and, therefore, **no building permit or building inspection will be carried out**. By adopting such a position, the municipality recognizes that the issue of building structures situated in the water which are not attached to the land is **Federal jurisdiction and, therefore, beyond the scope of the Building Code Act being Provincial legislation**.

Factors 1 and 2 will be further dealt with by me and others through Federal Fisheries Department and Provincial Minister of Natural Resources

Factors 3, I will continue to deal with the **misunderstanding** the Township has regarding their authority to zone in water development.

Factor 4 is the purpose of this letter.

So far this is what I have done in an attempt to clarify the issue

April 28 2011ⁱ

I wrote your Policy and Legislation group asking two specific questions on the requirement for building permits. Despite several follow up discussions with your staff, no response has been received. I understand these questions were discussed with your ministry legal resources and they were not prepared to provide a response. This is a crucial aspect for protecting the water quality of our lakes and implementing official plan policies in both the upper tier and lower tier official plans. An answer is required.

June 29 2011-ⁱⁱ

I completed a “Ask the Building Code or Building Code Act Question” on your ministries web site. I did receive two phone calls back from your staff and was told it was “**at the discretion of the townships**” whether they required a building permit for in water structures. I asked to have this confirmed in writing **but did not receive.**

July 5 2011ⁱⁱⁱ

I e mailed the Ontario Building Code group asking for confirmation that the requirement for a building permit for in water boathouse was up to municipalities

July 6 2011^{iv}

Received e mail from your Building Code branch indicating municipalities have jurisdiction for enforcing the Act (OBC) and **should contact appropriate building official**

July 7 2011 ^v

I e mailed Building inspector in North Kawartha and Havelock Belmont Methuen Townships asking “are building permits required for in water boat house supported on bottom of lakes owned by Province of Ontario”

July 8 2011 ^{vi}

North Kawartha Chief Building official responded by saying “*municipalities jurisdiction is only to high water mark and jurisdiction over lakebeds would have to be dealt with by the Province at Ministerial level.*”

July 14 2011 ^{vii}

Havelock Belmont Methuen twp responded saying “*structures being built on the bottom of lakes which are owned by the Crown is beyond the scope of the Building Code Act, there for no building permit or building inspection will be carried out.....land is Federal jurisdiction and therefore beyond the scope of the Building Code Act being Provincial legislation.*”

So

Obviously local municipalities in Apsley area under the impression and or misunderstanding that building permits are not required under the Ontario Building code

So

Our lakes are exposed to unregulated development

With foregoing background, I and others need an answer to the following question

For boathouse structures, one and two storey being built in water supported and occupying provincial lands on Jack Lake within North Kawartha or Havelock Belmont Methuen Townships, are building permits required under the Ontario Building Code?

I would appreciate an answer as soon as possible and before August 26th in order that I have the information for a meeting of area cottager associations.

Ambrose Moran BA

PO Box 414 Apsley Ontario

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Cc list A & D

ⁱ Letter From Ambrose Moran to MMAH James Ross April 28 2011

ⁱⁱ Ask Building Code or Building Code Act question by Ambrose Moran June 29 2011

ⁱⁱⁱ E mail to codeinfo from Ambrose Moran July 5 2011

^{iv} Email from John Griffyn to Ambrose Moran July 6 2011

^v E mail to North Kawartha Building Inspector from Ambrose Moran July 7

^{vi} E mail North Kawartha Building Inspector to Ambrose Moran July 9

^{vii} E mail from Havelock Belmont Methuen for Building inspector to Ambrose Moran July 14