

Submission #21 Feb 9 2013 to North Kawartha Council by Ambrose Moran

Subject **Zoning Lake Beds**

This submission to be read in conjunction with my submission to North Kawartha Council #12 dated Set 12 2011

Since that submission was made, a legal claim has been file against various parties including North Kawartha and I can understand based on the active legal claim that Council does not intend at this time to accept that the Planning Act provides for municipalities to regulate certain uses and structures on lands covered by water despite this being common practice in Ontario.

It is my opinion and has been since I file an appeal to the OMB on this issue in 1996, that yes townships do have authority to regulate in water development.

The Federal Government recently amended the Navigable Water Protection Act to eliminate red tape and overlapping jurisdictional authority for construction of structures in Canadian waterways. Media releases from the Feds claimed there are adequate controls in place by the Provinces and **Municipalities** to regulate in water works.

Recently the **Federal Minister of Transport** confirmed to meⁱ in response to my requestⁱⁱ for clarification on municipal authority to regulate in boathouses that **“municipal authority to grant building permits is untouched therefore municipalities will continue to decide where and when project can be built locally”**

Ministry of Natural Resources has consistently taken position that MNR is regulated by the Planning Act and must have regard forⁱⁱⁱ local municipal planning policies so if North Kawartha prohibited in water boathouses MNR is required to respect that position in the administration of their land use policies in North Kawartha. MNR stated in an e mail **“While municipalities do have jurisdiction to enact zoning by-laws that extend onto Crown land, these by-laws are only applicable to the activities of third parties on Crown land. Such zoning by-laws are not binding on the activities of the Crown or activities carried out on behalf of the Crown provided it does not interfere with navigation and does not conflict with provincial legislation.”**

Until this jurisdictional issue is legally resolved, and Council does pass zoning regulations to regulate in water boat houses North Kawartha Lakes except for those lakes within the Kawartha Highland Provincial Park, which are regulated by the Parks Act, will be exposed to unregulated in water boathouse development. The current draft zoning bylaw **does regulate** in water structures such as docks and boat ports

My recommendation is for Council to take immediate steps to resolve this jurisdictional gridlock. Since the Council and Staff positions of “no municipal jurisdiction for in water development” is reportedly based on one legal opinion, consideration should be given to obtain a further legal opinion on this matter before passing the proposed consolidated zoning bylaw.

Ambrose Moran

ⁱ E maim to Ambrose Moran Jan 24 2013 from Minister Denis Lebel

ⁱⁱ E mail From Ambrose Moran to Minister Denis Lebel Oct 23 2012

ⁱⁱⁱ Planning Act section 6.2