

**From:** [Gillian Cramm](#)  
**To:** [Gillian Cramm](#)  
**Subject:** FW: Please forward  
**Date:** June 10, 2022 12:31:06 PM

redacted information consists of  
personal information and opinions  
FIPPA sec. 22(1), (3)(g)

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**From:** Mr. Temple [redacted]  
**Sent:** May 26, 2022 9:26 AM  
**To:** Fiona Titley <[ftitley@rdos.bc.ca](mailto:ftitley@rdos.bc.ca)>  
**Subject:** Please forward

Fiona,

Could you please forward this email to Katie Robinson and Judy Sentes for us as our email address is blocked by their system.

Thank You  
Grant Temple

RDOS Board Members,

This correspondence is regarding the denied Temporary Use Permit (TUP) D20022.005 application submitted by my wife and I, which took place on May 5th, 2022. I have contacted Director Obirek for a meeting to discuss the lack of transparency in the overall process, the vendetta that culminated in the initial complaint, the inappropriate information which was discussed and none of this information was relevant to the application. This point was even noted by the chair during the board meeting.

As RDOS board members, I am providing you with information which will hopefully convince you that an injustice has been done and there is enough evidence to justify bringing back the motion for reconsideration. I have outlined below the concerns on behalf of my wife and myself.

There were numerous errors and oversights which did not allow us to have a fair transparent and unbiased process.

1) I was informed the original complainant to our Vacation Rental home, [redacted]

[redacted]

The name of the other board member who provided the email has been redacted as [redacted] is fearful of retribution. [redacted]

2) Secondly, Director Obirek brought into the discussion our deck renovations which was not pertinent to the matter at hand - the TUP application. The information provided was exaggerated and incorrect. Specifically, a comment attributed to us by Director Obirek that "it was easier to seek

forgiveness than ask for permission” was double hearsay and could only have come from [redacted]  
[redacted] and who was in fact the person who had made the comment [redacted]

3) Thirdly, Director Obirek failed to inform the board that the Advisory Planning Commission (APC) had met on April 12, 2022, reviewed and unanimously recommended the TUP request. I was under the impression that it is customary to provide APC recommendations to the RDOS board. For some reason this was not done.

4) The fourth issue relates to the RDOS procedures for notifying us that there might be complaints or concerns relating to the TUP. We were first informed of numerous public complaints against the TUP at the RDOS meeting on May 5th. These complaints were not forwarded to us prior to the meeting, and we were not informed that they could be found online. During the meeting these complaints were never discussed or elaborated on and therefore no opportunity was provided to defend ourselves. It should be noted that when we tried to state our objection to points being made, our mics had been muted and we were unable to address any concerns or issues that had been identified by Director Obirek.

The website does not have clear links to where complaints relating to TUPs can be found. In the hard copy mail communication sent to us, dated March 22, 2022, it does give us a link to a web page regarding our permit that specifically states: **“Additional information regarding this TUP application, including a copy of the draft permit and instructions on how to use Webex, can be found (URL provided)”**. This link takes you to a web page with dozens of links where the link for complaint letters is identified as “Representations”. The only way we found this was to have someone at RDOS walk us through the website. At no time did any RDOS staff mention to us that there were concerns with the application or direct us to where concerns might be found.

5) Finally, it should be noted that RDOS staff completed safety inspections, reviewed all new rules and regulations regarding TUPs. Our home successfully passed all conditions required for their full approval. We signed and agreed to comply with all regulations. We were informed that there was a 6-month probationary period prior to full permit approval. If you read the RDOS fact sheet on Vacation Rental TUPs you will note the following statement.

***The RDOS Board cannot place a moratorium on people’s ability to apply for a TUP. However, the RDOS Board can change the vacation rental policy regarding the types of applications that may be approved or denied.*** Upon review of the video of the day's meetings, we heard the board discuss that they were not making any new changes to the existing TUP policy and that a community review would be undertaken in 2023. Our concern is why did the board immediately change board policy right after they stated a review would take place next year.

I have now reviewed the complaints which consisted of two main issues relating to the water system and neighbours not wanting a rental near their homes. In brief, we have never had one complaint in the past 5 years of operating the Vacation Rental for noise, rudeness to neighbours, parking, improper garbage disposal or overuse of water (we do not have meters, so this is impossible to gauge). In fact, none of the written complaints come within 100 meters of our property. Our close neighbours have no issues and we have included a recent email by one of them Jen Cabeldu who avidly supports our application.

In conclusion, I’ve included our lawyer’s concerns over the handling of this permit and its lack of

due process. My wife and myself simply want to be given a fair hearing and feel all the information provided is more than enough to justify having the motion brought back for reconsideration. However, I want you to also consider the message you may be sending to other potential applicants that permits can be denied for reasons other than the stated rules. It also encourages individuals to use the RDOS as a means to settle vendettas and not for the true purpose of bylaw enforcement.

As we believe Director Obirek may not have been aware of most of these issues, we have asked for a meeting so he can become apprised of our concerns and hopefully bring this motion back for reconsideration. It should be noted that any director who voted for the motion can ask for it to be reconsidered. If you have any questions, please call or email us.

As Director Obirek has been quoted in the Penticton Herald as saying: "Let's listen with an open mind and not prejudice. Let's go through due process and give the members of the community the respect they deserve and the courtesy to be heard."

Grant Temple and Michelle McReavy







Ian Aikenhead, Q.C.\*  
Andrea Jones  
Joseph Wong\*  
Annabel Kim\*  
Dustin Paul  
Mark Trischuk  
Kepler Rotheisler  
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File No: Temple re: RDOS  
Attention: Ian Aikenhead, Q.C.

Assistant: Monika 604-215-2843, monika@amjlaw.ca

e-mail: aikenhead@amjlaw.ca  
Direct Line: 604-215-2833

May 11, 2022

*By email*

Re: Application to RDOS Temporary Use Permit D2022.005-TUP

Dear Mr. Temple,

**Background**

Redacted information consists  
of names and personal  
opinions  
FIPPA sec. 22(1), (3)(g)

1. You have asked for my opinion concerning an application that you made to RDOS to approve the staff recommendation for a Temporary Use Permit for vacation rental for 2022 for your property where you reside at 3136 Vaseux Lake Crescent.
2. You are retired, a permanent resident at that property that you own, and your stated intention was to rent out your home for 4 to 6 weeks in 2022 for some additional income. You will continue to reside in the same area during the rentals, to be able to keep a close watch on any rentals.
3. You have previously rented out the property without any problems or complaints, for several years. You learned in December 2021 that you needed a permit, and you immediately began the permit process. You made a number of changes to the property with this in mind, and dealt directly with RDOS staff. RDOS staff approved the changes, and safety inspections were done by RDOS staff. They recommended approval of your application as having complied with the rules and regulations concerning vacation rentals.
4. You applied for the Temporary Use Permit on March 8, 2022. A meeting of the Advisory Planning Commission was held April 12, 2022 and that Commission also recommended approval of your application, unanimously.
5. On May 5, 2022 you attended a meeting of the Board of RDOS. RDOS staff simply advised of the meeting time and date. You were not advised that there were any letters of opposition that had been received by the Board, nor were you provided with any objections or concerns that were raised by anyone with respect to your application. You attended the May 5 meeting of the Board in good faith expecting that if there were any issues relating to your specific application that you would be given an opportunity to deal with them.
6. On May 5, 2022, at the meeting of the Board, there was an earlier discussion (not

concerning your application), at which time staff advised that there was discussion in the community and by the staff as to whether the current rules regarding vacation rentals were too strict, or not sufficiently restrictive. Staff advised that they were not in a position to have the necessary community engagement in 2022, but presented a plan to the Board for a community engagement process to deal with the issue of vacation rentals for 2023. The Board approved this process, and directly or impliedly agreed that the current process for vacation rentals would continue for 2022.

### **The Hearing of Your Application**

7. Subsequently at that same meeting, your application came up for approval.
8. You had not been advised of any specific concerns or objections to your application. Staff spoke to the application and advised the Board that they recommended approval of the application. Director Obirek then moved a motion to reject the staff approval, without giving any reasons. The Chair invited you to speak to your application, which you did very briefly, not addressing any objections, because you are not aware of any.
9. The Chair then invited members of the Board to ask any questions of you. Director Obirek then asked a series of questions, none of which were related directly to your application, but were implied or direct criticisms of your past conduct of dealing with improvements to your property, making double hearsay allegations of past comments you allegedly made that were completely unrelated to any issue concerning your application, and following that up with a further question implying that you were lying. The Chair correctly interrupted these questions by advising the Director that his questions were not relevant to the application before the Board.
10. The Chair then called for any discussion on the motion by the Director rejecting the recommendation of staff. The only person who spoke was the same Director Obirek, who did not indicate any reasons why your specific application should be rejected, and in fact did not urge the other Directors to reject your application, but rather simply suggested to the other Directors that they pay attention to the objections that were contained in the letters. None of those objections were discussed in the open meeting, and none of them were communicated to you at any material time for you to address. You have advised me that if any of the objections are relevant, you have a complete and satisfactory answer to them, although you were not given the opportunity to provide those.
11. You were not given an opportunity to respond to any objections, as you are not aware of the nature of those objections, and the only comments made by the Director who spoke, were not related to your application, but rather were directed at personal criticisms of you, or general comments as to why RDOS should not allow vacation rentals generally.
12. The personal criticisms were not relevant, and cannot be used by the Board to consider an application, and the general comments about not allowing vacation rentals were not germane as well as inappropriate and contrary to Board policy, in view of the decision of the Board an hour earlier that there would be no changes to the policies concerning vacation rentals, until a community engagement project was completed in 2023.



13. The Chair then called for a vote and 3 Directors voted to approve your application, and the other 6 Directors voted to reject the staff recommendation to approve your application. No reasons were given. No discussion was held.

#### The Letters

14. There were 10 letters that the Directors received, but you were not provided with them before or at the meeting. You were not given an opportunity to respond to them, which is denial of natural justice and process.
15. As an overview, none of the letters (with two exceptions) dealt specifically with any issues or problems with the property in question, or the application in question. All of them dealt with more general issues as to whether it was appropriate for there to be vacation rentals at all, mainly due to unproven water concerns. No complaints concerning vacation rentals at your property were ever made prior to your application.
16. The Board had already decided that they would not change the policy and practices concerning vacation rentals until and unless there was a community engagement process, and that was to take place later in 2022 and take effect in 2023. Further you advise that you have subsequently learned that the present Board policy is to approve first time applicants for a trial period of 6 months. Observations and potential concerns can then be monitored, and then applicants are then asked to reapply for a 3 year period. This gives the planning department an opportunity to view concerns prior to the long term commitment. This policy was not followed concerning your application.
17. Concerning the specific letters, we note the following:
  - a. [redacted] raises concerns about the water system and potential shortages of the water system, in spite of the fact that staff was obviously aware of any water issues that might arise from this specific application. [redacted] did not address any issues or concerns with respect to the application in question, but rather opposed any vacation rentals.
  - b. [redacted] simply states that she is opposed to Seasonal Vacation rentals, permitted or not. It is common ground amongst the Directors, and the clear evidence was provided to the Board, that there are number of vacation rentals at Vaseux Lake, which have not obtained permits.
  - c. [redacted] confirms that there are number of properties on the Lake that run vacation rentals without permission, and opposes expanding the number of vacation rentals mainly because of the "limited water supply". Again, there is no evidence of a limited water supply that would be caused by the very limited application that you made, and it is counterintuitive that the Board would turn down a person applying for a permit for vacation rentals while turning a blind eye to obvious un-permitted vacation rentals.
  - d. [redacted] similarly raises the concern not about this particular application, but rather the general issue of opposing any vacation rentals due to water issues, and assumes that people renting would not obey water restrictions. The main water usage is for watering lawns, as is common ground. You were not given an opportunity to tell the Board that you have an automatic water system for watering your lawn which complies with all water restrictions.

e. [ ] raises essentially the same water concerns, and specifically states that she does not want a precedent enabling people to buy houses and turn them into full-time rentals when they do not live here. That is specifically not relevant or germane to your situation where you do live in your property on Vaseux Lake as your primary residence.

f. [ ]

[ ] She raises the water issue concerning the use of the cabana so that more than 6 people would be using the rental. As staff could have advised the Board, the cabana has been closed and you have undertaken to the staff that there will be no more than 6 people in attendance. Her concern about parking makes no logical sense, as a review of the property and the road in question would make clear. The suggestion that there would be obstructions by parked vehicles on that wide road for emergency vehicles is not factual. She raises the issue of recreational vehicles associated with guests, which is not factually relevant. No recreational vehicles will be used there.

[ ] also raises the issue of water shortages which appears to be entirely irrelevant to your application, but may be relevant to the community engagement discussions to happen later this year. Also, it ignores the fact that staff recommended acceptance of your application, who obviously are aware of any water issues.

She concludes her letter by stating that she opposes the application unless RDOS can verify that the applicant can verify that there will be no groups larger than the prescribed 6 renters. That has been done by staff, as confirmed in writing by staff, and this could have been confirmed by you and by staff if this issue was raised at the Board meeting. You verified the 6 renter limit as part of your application.

g. [ ] wrote to advise she has no concerns or reservations about the application or the residence operating as a vacation rental.

h. Fortis BC wrote to advise that they had reviewed the application and have no objections or concerns.

i. [ ] objects to any vacation rentals at any time, and opposes the application because you previously did vacation rentals without permission, and presumably should never be allowed to do so, even if you follow all the guidelines. She raises the water issue as the preponderance of her objections.

j. [ ] objects on the basis of the alleged water issue.

## Discussion

18. What the Board was left with were allegations by one Director of a personal nature against the applicant, and not relevant to the application, and comments by the same Director generally opposing any vacation rentals, and a number of letters, not disclosed to you, which also did not deal substantively with specific concerns of your application, but rather not wanting any vacation rentals for reasons of water use, the basis of which was not established on evidence either to the Board or by the staff which approved your application. There is no evidence in your case, as a permanent resident of the property, that renters would use substantially more water than you and your family, in any event.




19. Under the circumstances, an objective observer would have to conclude that the only way in which the Board could reject the staff recommendation concerning your application would be if they considered the irrelevant and unproven allegations of one Director, and also found (against your interests), the unproven and unfounded allegations by several community members, contrary to the Board's own decision, just because these community members do not want any vacation rentals.
20. With respect, this was not the issue before the Board. An objective observer would have to conclude that the decision made by the Board was not based on any evidence that was available to them to exercise their discretion judicially or reasonably on your specific application. That is the legal duty of the Directors.
21. You applied for a temporary use permit after a complaint was made by a neighbour in or about December 2021. You went through all of the necessary processes to comply with RDOS regulations. You then attended the RDOS - Advisory Planning Commission (APC) meeting on April 12, 2022. During that meeting RDOS staff indicated that they recommended the application be approved. The APC also recommend your application unanimously, based on a personal discussion with you at that meeting about your intent and ability to monitor the property. Director Obirek was at that meeting at did not voice any concerns. You now understand that it is the obligation of the Director who attends the APC meeting to inform the RDOS Board that the APC recommended this application. That was not done at the RDOS Board meeting, contrary to normal practice and procedures.
22. Following this flawed procedure, the Board rejects your application. They do so without giving you a proper hearing with the ability to respond to objections that you are not advised of, and denied you natural justice. This is notice to the community that even if members comply with all the rules and regulations and the directions of staff, the Board will reject applications, not on the basis of the application itself, but on irrelevant personal or general concerns that individual Board members may have. If your application is dismissed, no clear thinking member of the community becoming aware of this decision will seek approval through normal procedures for any changes that they wish to make concerning their property.
23. The Board appears to have rejected your application using irrelevant or unproven allegations, not dealt with any specific concerns about your property in your application, but rather made a decision based on the more general issue of whether there should be any vacation rentals.
24. That was not the issue before the Board, and their decision can be judicially challenged as being contrary to their own decision of an hour earlier, denial of procedural natural justice, and changing the rules with respect to vacation rentals without notice to the many persons who would have an interest in that issue.
25. We recommend that you approach the RDOS Board members to bring back this motion for reconsideration, based on the above concerns about the process used.



If you have any questions concerning the above, please do not hesitate to contact me.

AMJ LAW



Ian Aikenhead, Q.C.  
IDA:mv

Grant and Michelle,

anonymous submission  
personal opinion (FIPPA sec. 22(3)(g))

Cheers,

Available for court purposes but name has been redacted as she is afraid of retribution.



personal information  
has been redacted  
FIPPA sec. 22(1)

Mr. Temple

## letter of support for rental permit application no. D2022.005 for 3136 Vaseux Lake crescent

1 message

Jen Cabeldu  
To: ftitley@rdos.bc.ca  
Cc: >

Wed, May 25, 2022 at 12:30 PM

Hi Michelle and Grant, further to our communication, please find below my letter of support for your rental permit application.

To whom it may concern;

I would like to express my support for the rental permit application D2022.005 for 3136 Vaseux Lake crescent.

I jointly (with my sister) own Vaseux Lake crescent, doors down from the property in question. My family has owned the property since 1973 and have seen the evolution and growth of development and use on Vaseux Lake over the years. We feel privileged to have grown-up spending summers and vacations at Vaseux and are always eager to host friends and family so they too can experience the lake, local wineries and natural beauty.

I was completely surprised to receive the letter advising of the RDOS board decision to deny the application.

I understand there was opposition from other lake residents and I am wondering if there is a weighting system. As a neighbour only doors down, does my support/opinion carry greater weight than a neighbour further away?

Vaseux Lake and Vaseux Lake crescent are not part of a "gated" community or private lake; in fact with a government campground, I would have expected the RDOS to encourage more vacation rentals to increase access to recreation, bird watching and the lake in general. My personal perspective is that we need vacation rentals to further local tourism, support local wineries/businesses and create access and equity to our natural resources.

How dare the privileged few suggest, through opposition to this application, that their access and enjoyment of the lake is more important than providing that opportunity to others through rental access.

Vaseux Lake has a long history of vacation rentals with the SunDial Motel being a staple for many years. I understand that a TUP was granted for 166 SunDial Road with multiple renewals, I would be interested to know the nuances of between the applications that result in one being approved and other denied.

For the record, we have never experienced any negative repercussions in the past due to rentals at 3136 Vaseux Lake Crescent. To my knowledge, there have been no noise complaints, parking concerns, littering or any other negative consequences related to rentals either at the address in question or other vacation rentals on the lake.

I am hopeful that the RDOS board will reconsider the decision. I feel strongly about creating access to recreational assets and properties especially in the current housing market. To suggest the only viable way to enjoy vacationing on Vaseux Lake is through home ownership (I am sure you are aware the only property currently on the market on Vaseux Lake is being offered at \$1.5 million dollars) or camping at the government campsite is ludacris and simply a "privileged" perspective.

Allowing vacation rentals increases access for individuals and families; increases tourism and supports local businesses.

I would welcome further discussion, please contact me if there is further information or discussion needed.

Yours truly,  
Jennifer Cabeldu