

April 7, 2025

Delivered by Email: clerk@southalgonquin.ca

The Corporation of the Township of South Algonquin
7 Third Avenue
PO Box 217
Whitney, Ontario
K0J 2M0

Attention: Mayor LaValley & Council

Dear Mayor LaValley & Council:

**Re: Concerns with Township of South Algonquin Noise and Nuisance By-Law No. 2025-823
SV File No. 089476-0002**

We are the lawyers for Andrew Michel and Algonquin Accommodations Inc. Our clients operate a series of motel and tourism related-services within The Corporation of the Township of Algonquin (“**Township**”) and are active members in the local business community.

At the Council Meeting on March 5, 2025, Council passed the Township Noise By-law No. 2025-823 (the “**Noise and Nuisance By-law**”). There was no substantive discussion on the Noise and Nuisance By-law at the Council Meeting. Previously, a Staff report was prepared for the Township’s Human Resources, Administration & Public Relations Committee Meeting on February 19, 2025. Township Staff was directed to bring forward the Noise and Nuisance By-law with minor revisions for Council’s consideration at the Council Meeting.

On November 21, 2024, the Township’s Asset Management Committee considered an initial draft of the Noise and Nuisance By-law (the “**Asset Management Committee Meeting**”). Some Township residents submitted written comments for consideration at the Asset Management Committee Meeting. For example, my client prepared written comments in correspondence to the Township dated October 21, 2024, which were included in the agenda for the Township’s Asset Management Committee Meeting (the “**Correspondence**”). The Correspondence raised some concerns which are excerpted, as follows:

3. Nuisances – Odours

*The Township of South Algonquin does not offer municipal sewer service, which means every rate-payer with a bathroom uses septic systems. The process of pumping a septic can result in **temporary***

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and unavoidable odours. *Businesses who pump more often may be at a higher risk of complaints simply as a regular and reasonable part of their operations. Furthermore, businesses also utilize portable restrooms for events or other purposes. These are essential for businesses and the environment and can require regular pumping, which can result in short-term odours.*

4. Dust

Construction activities inherently generate dust, which is often unavoidable. While construction is permitted during the hours of 7am-11pm, the nuisance dust provision could be used to halt important construction projects or even routine activities like driving on private roads or laneways at any hour.

5. Light

The bylaw does not appear to exempt passive lighting such as a back door light. The lack of distinction between types of lighting could burden the township with unnecessary complaints about light pollution, even when no actual harm is caused.

The meeting minutes for the Asset Management Committee Meeting described that Township Staff received no direction to make any substantive changes to the draft Noise and Nuisance By-law, as excerpted below:

Staff will make the revisions discussed - the title to include nuisance and noise activities, revise Schedule A to include times instead of anytime. Draft will be sent to Ontario Court of Justice for fine preapproval.

For clarity, the Asset Management Committee appears to have acknowledged and discussed some of the comments raised in the Correspondence. However, it appears that the Committee deemed that no changes were necessary to the draft by-law's provisions to prevent some of these concerns raised by the public.

With respect, our client continues to have concerns with the following definitions and provisions of the Noise and Nuisance By-law which includes, as follows:

“Public Nuisance” Means an activity or activities, intentional or negligent in origin, which have a detrimental impact on the use and enjoyment of properties in the vicinity of the premises such as but not limited to: fighting, obstructing a sidewalk, distributing handbills, annoying others, interfering with others’ lawful activities, disobeying signs, knocking over waste containers, damaging municipal property, applying graffiti, littering, dumping snow on municipal property, dumping waste on municipal property or unnecessary shining of vehicle, spotlight or fixed lights towards houses.

[...]

2.0 Prohibitions

No person shall emit, cause, or permit the emission of noise resulting from any act listed in the table set out in schedule “A” of this bylaw if clearly audible at a point of reception between the hours of 11:00 PM of one day and 7:00 AM of the following day.

[...]

5.0 Public Nuisance

No person shall at any time:

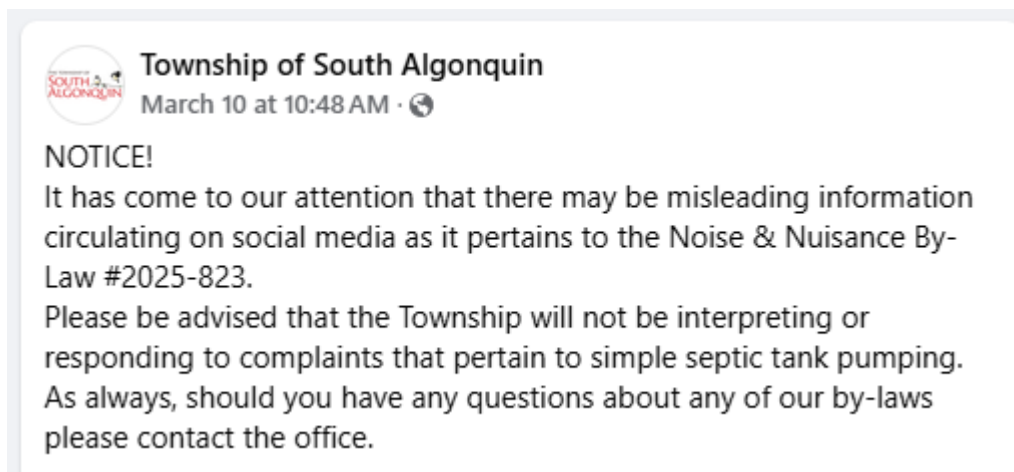
b) Perform, permit or allow any activities on one Property which are obnoxious, or which substantially reduce the enjoyment of another Property, including, without limiting the generality of this section, activities such as:

- i. the creation of vibration; or objectionable odour [or]*
- ii. the emission of smoke, dust, airborne particulate matter.*

Our clients continue to take issue with above definitions and provisions of the Noise and Nuisance By-law as passed because there is a potential adverse impact for local businesses performing its regular commercial operations despite taking reasonable precautions, as follows:

1. The definition of public nuisance explicitly includes “spotlight or fixed lights towards houses” which may include a backdoor light. Our client uses backdoor lights as part of its delivery of motel services. This standard commercial practice is for safety purposes.
2. Section 2 of the Noise and Nuisance By-law only applies to noise. As a result, any activities that may create an odour, dust, and/or light through ordinary business practices, are **not** exempt if performed during normal business hours unlike the noise activities in Schedule “A” of the Noise and Nuisance By-law. For example, the emission of dust arising from a local business owner performing Township-approved construction or renovation activities on site is captured as described in Section 5.0(b)(ii) of the Noise and Nuisance By-law.
3. Section 5 of the Noise and Nuisance By-law prohibits “objectionable odour”, dust, and “airborne particulate matter” at any time. The Township retains wide discretion to interpret what nuisance activity may satisfy each definition because, in part, they are undefined in the Noise and Nuisance By-law. As a result, despite any concerns raised by members of the Asset Management Committee, all Township businesses are susceptible to a public nuisance complaint due to odour arising from septic pumping services pursuant to Section 5(b)(i) of the Noise and Nuisance By-law in the course of regular commercial operations. My clients are concerned about consistency in the interpretation and enforcement of the Noise and Nuisance By-law by the Township.

In response to some discussion of the Township Noise and Nuisance By-law, the Township clarified that this By-law is not intended to address “simple septic tank pumping” on its social media page (the “**Township Facebook Post**”), as follows:



With respect, a single Township Facebook Post is an inadequate mechanism to ensure the accountability and transparency of the Township’s operations. Further, the Township Facebook Post does not address any potential dust or lighting concerns. It is also unclear whether “simple septic tank pumping” would include pumping for commercial septic tank systems which may occur at a greater frequency compared to residential

systems. It is our understanding that the Township has not published any further information, commentary, or notifications on this matter. Please kindly confirm.

In the interim, we would kindly request that the Township provide our office with some written direction on the interpretation and enforcement of the Noise and Nuisance By-law including whether reasonable commercial activities are exempt with a copy of the same available on the Township website.

Further, we would request that Township Council consider revising the Noise and Nuisance By-law to carve out exemptions for activities that it does not intend to capture within this By-law as a means of creating more certainty and predictability for local businesses. As currently drafted, our client will continue to explore other options available to protect local business interests within the Township including any remedies available pursuant to the *Municipal Act, 2001*, S.O. 2001 c. 25.

We would welcome the opportunity to further discussion with you and/or Township staff on this matter before the next meeting of Township Council on May 14, 2025.

Yours Very Truly,

SMITHVALERIOTE LAW FIRM LLP

PER:



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