

**KENDALL TOWN BOARD
PUBLIC HEARING
PROPOSED SHORT TERM RENTAL LAWS
Tuesday, January 10, 2023, 7:00 p.m.
Kendall Jr./Sr. High School, Roosevelt Highway, Kendall, New York 14476**

Supervisor Cammarata opened the Public Hearing at 7:10 p.m., and led the Pledge of Allegiance.

ROLL CALL

Councilwoman Flow	present
Councilman Jennings	present
Councilman Martin	absent
Councilwoman Szozda	present
Supervisor Cammarata	present

Approximately one hundred thirty people attended the hearing.

The following requests were made by the Town Board:

When recognized by the Board, please stand, if able, and state your name and address for the record. This hearing is to record comments in favor of, or opposed to, the two proposed laws concerning short term rentals only.

Please keep your comment to a three minute limit, so that everyone wishing to speak may do so.

Any written correspondence to be submitted for record must be done so through the office of the Town Clerk. Written statements submitted to Amy Richardson, Town Clerk, by 1-13-23 will be included in the minutes file for this Hearing.

Supervisor Cammarata introduced Sergeant Hazel from the Orleans County Sheriff's department.

Sergeant Hazel wanted attendees and the general public to feel confident in calling the sheriff's office from a property or about a property where a law is being violated. All complaints will be investigated. Anonymous complaints will be taken seriously, but obviously cannot have the follow up or further inquiries made of the complainant.

A woman who did not identify herself asked the officer about response time to 911 calls.

Sergeant Hazel answered that the time would depend on many factors, but that generally within fifteen minutes.

A man who did not identify himself asked if an appearance ticket can be issued on the spot.

Sargeant Hazel answered that if a penal law is being violated, yes. The sheriff's office does not generally get involved in town code issues, however.

Supervisor Cammarata reminded the attendees that this meeting is not a dialogue and not a question and answer session. It is a forum to hear those wishing to comment on the proposed short term rental laws, and the board will listen.

The Town Board chose to use a timer to limit speakers to three minutes each.

PUBLIC COMMENT

Mr. Grimes, of Banner Beach, speaking on behalf of STROUT (Short Term Rental Owners United Together), introduced a letter from its legal representative, Steven Barshov, of Sive, Paget, and Riesel Law, P.C., which provides strong opposition to the proposed Local Laws restricting short term rentals.

Clerk's note: The letter was read into the record, and is attached, in full. The issues in opposition to the laws, which were stated in the letter, include failure to provide the required Waterfront Consistency Review report, failure to comply with the Local Waterfront Revitalization Program, and the Comprehensive Master Plan, lack of jurisdiction, unequal treatment under the law, errors in logic and lack of evidence of problems stated, punitive licensing fees and insurance requirements, and a complete lack of basis for several restrictions outlined in the law. The letter mentions the Orleans County Planning Board recommendation NOT to adopt these laws. The public hearing seems premature and rushed. The letter states a concern that more than one of the Town Board members have a clear personal conflict of interest in their desire for prohibition and drastic regulation of short term rentals and should declare that to be the case, and must recuse themselves as a matter of law. A plea for including the STR owners in a recrafting of any necessary regulations was made.

The Town Board chose to limit those reading this document into the record to three minutes each, so several readers took turns completing this. The following also read portions of the letter:

Gail Griggs, Debra Stuckless, Deirdre Brett, man from Hamlin, James Maloney, Greg Stuckless, Kate Czeh, Michelle Malin, and Tina Grimes.

James Maloney of Banner Beach Road (opposed to the laws) addressed the concern that Supervisor Cammarata and another Board member, also of Banner Beach Road, have a personal and direct interest in this matter, which is not being universally applied throughout the Town of Kendall, and that presents a conflict of interest. Mr. Maloney has moved here and made friends

of his neighbors. He would not jeopardize their abilities to enjoy their homes or their abilities to rent their property to subsidize the costs of operating that property.

Karen Patterson, Bald Eagle Drive – (did not mention the proposed laws) spoke against what are in essence hotels on her street. She has been told there are to be no businesses on private roads, and does not understand why any short term rentals are allowed in Kendall, and would like to see them banned. She stated she lives on a private, not public, road, which is privately maintained, and already has too much traffic, including golf carts and children in the summer. People do not observe the suggested 15 mph speed limit. She expressed that the lakeshore is a risk factor, also. She and her husband do not want a “gaggle of strangers partying it up next door, and fears the house next door to her will sell, and become a rental, and all she and her husband have worked for to obtain tranquility will be at risk.

Nancy Lyons, Bald Eagle Drive – (opposed to the proposed regulations) asked the audience to show by standing, how many wished to maintain Kendall’s longstanding waterfront history of offering short term rental properties to visitors. (Approximately sixty people stood). Supervisor Cammarata asked them to sit down. Mrs. Lyons continued that she and her husband bought a run-down eyesore of a property on Bald Eagle Drive approximately five years ago, and through painstaking work, turned it into a beautiful, 5-star rated Airbnb. The family and friends who have stayed there have brought much joy and created memories as they have relaxed, or celebrated important milestones, or held reunions. The Lyons fell in love with Kendall, bought another home on the same street and moved their family here. They are meticulous about who is allowed to stay, as they have a vested interest in the safety and security of the neighborhood. Pride of ownership is clearly demonstrated in everything they do. These proposed laws seem motivated by unfounded fear. She asks the elected and appointed town leaders not to be manipulated by fear, and instead realize the many benefits to the entire area and its visitors when we share this gem of living here.

Jon Gainer, Bald Eagle Drive – (did not state a stance on the laws as proposed) He bought a house on Bald Eagle Drive in 2000 to be his retirement home, which it now is. He appreciated the peace and quiet this home provided, but now there is “busyness”, and speeding cars down the one lane road. Because the road is private, the property owners must pay for all maintenance, and it is not conducive to businesses such as short term rentals. He stated he has nothing against the owners of STRs, but he does not want any to continue on his road. They can buy them somewhere else. His one lane road is not appropriate for them.

Lyudmila Sewstyandova, Lakeland Beach Road, is the manager of Bald Eagle Marina and restaurant. She is opposed to the proposed laws being passed. There has been a significant investment into the marina’s third floor, which has been designed specifically for short term rentals. There is no other use for the space. The investment money will be lost. Passage of these laws will render this business unviable. The effect will also spread to those whose livelihoods

depend upon the visitors' and tourists' staying at local short term rentals – the marina's and those nearby. Those employed by the marina and its restaurant, the charter captains who run fishing and tourist excursions, the nearby farm markets and wineries and restaurants, and those local businesses supplying construction and cleaning services will suffer. The loss of revenue, if charter captains had to leave, would force exorbitant increases in slip rental for the many boaters. In her speaking with some of the signers of the petition to eradicate STRs, some seemed unaware of the effects it would have on the marina. It is selfish and short sighted to say you just want your peace and quiet, while others are trying to offer that to others. When she moved here to run the marina, she fell in love with the region and wants to share the area and experience with visitors. It is not right.

Jim Locicero – Bald Eagle Drive – has lived on Bald Eagle for twelve years, and loves it. They have experienced two rounds of flooding and the repairs to fix damage from that, the Covid time, of course, and then in 2022, they became aware of STR issues. They have stopped putting money into their property because they are so afraid that the house next door to them will become a short term rental. The lots are so close there that the porches are only twelve feet apart. Mr. Locicero has parties, but they are supervised parties. He stated that an STR has the potential to be a fifty two family home. There could be someone grilling food every day, or having a campfire every day, or fireworks every Friday night right next door. He enjoys really knowing and appreciating his neighbors, and does not want strangers coming and going. He says he is not a nasty person, but is a private person, who wanted to be away from the city and its noise. He worries that if a renter were to be injured while unknowingly on his property, he could be held financially responsible. His insurance agent said if the next door residence becomes an STR, he should have an umbrella policy. He did not comment on the proposed laws.

Paul Nau, Hamlin – spoke against these laws being passed. Mr. Nau has been a licensed charter boat captain for over thirty seven years. He is one of the many captains who operates his business from Bald Eagle Marina. His business donates to six local charities. Ninety percent of his patrons are from out of state and stay at local short term rentals. They are mostly older and retired, working class people, not young party-types. They eat at Lures and other local establishments, spend fuel money, and sight see locally. They provide sales tax revenue. In all the years of his business, there has only been one negative issue ever, and that took place at the Friendly Motel, not an Airbnb. If these laws pass, he may be forced to move his business to Niagara County, as will many of his colleagues in the charter boat industry throughout Orleans County. This will be unfortunate and costly. He asks the Board to consider the negative impact this legislation will affect small businessmen who depend upon tourism to continue. He has taken his lifetime to build his business and believes Bald Eagle is one of the best marinas in New York State.

David Bentley, Norway Road – opposed to the proposed laws. Mr. Bentley is a short term rental owner. Trying to understand where the impetus to restrict short term rentals originated, he has requested evidence of any complaints filed against short term rental properties or owners or any of their guests, through freedom of information requests to the town, and the sheriff. There were none filed in the town, other than anecdotes recorded in town board meeting minutes, and two ever with the sheriff’s department – one concerning a faulty alarm, and one was a call FROM a short term rental against a neighbor. The revenue generated through STRs in bed tax for the county is significant. Some of it was recently used for cobblestone preservation of historic buildings and also to maintain the Oak Orchard Lighthouse. STR owners all pay 4% bed tax to the county. Mr. Bentley addressed the issue of parties. The town has not considered the diversity of the short term rentals. He owns forty acres, and the closest neighbor is five hundred feet away. With certain restrictions, his short term rental allows weddings, reunions, and large gatherings. The self-imposed restrictions include provision of port-a-johns, and its own noise ordinance. The renters rent tents from the Kendall Lion’s Club, rent chairs from the Kendall Fire Department, and there has never been any problem with those using the property.

Brenda Gainer, Bald Eagle Drive – stated she is not against short term rentals, but does take issue with businesses operating on private roads. She believes the town code should include STRs as businesses in its definition. People renting homes who trespass onto adjoining properties, perhaps unknowingly, are a concern. She said there is a well maintained and well run STR on the street, and she does want to make an enemy of her neighbor, but hopes the final laws are clear and do not allow STRs on private, single lane roads. She did not comment on the laws as presented.

Michelle Malin, Norway Heights – At the July Town Board meeting, Resolution 85-0722:

(Jennings made the following motion, seconded by Flow:

RESOLUTION 85-0722 LEGAL REPRESENTATION FOR SHORT-TERM RENTALS LOCAL LAW

Be It Resolved that the Kendall Town Board authorizes Supervisor Cammarata to sign an engagement letter with Charles W. Malcomb, Esquire, of Hodgson Russ Attorneys, LLP, for development of local laws regulating short-term rentals. Legal fees will be capped at \$10,000.00. Any additional work outside of the local laws or any litigation will not be subject to the \$10,000.00, fee cap.

Supervisor Cammarata called for a vote, which resulted in all ayes, and declared the motion carried.)

was passed. The last sentence of that resolution is essentially a blank check for this lawyer, paid by the taxpayers of the entire town of Kendall. That money would be better spent toward getting people water or trying to save our local ambulance service. All of this cost for approximately ten short term renters and only those at the lakefront is a waste of money and actually works against something that generates money for the town. She is opposed to the laws as presented.

Pat Dorney, Norway Heights – owns property next door to a short term rental. She is concerned that renters may trespass and cause liability issues for her. Getting to the water from the homes on Norway Heights presents many hazards, such as large boulders and slippery rocks and stairs. When Ms. Dorney told her insurance agent about these hazards and that there may be large numbers of renters next door who may try to gain access to the water by trespassing onto her property, the agent advised her to obtain a one million dollar liability policy to protect their home. The visitors may not be familiar with the hazards, including slippery, an icy road in the winter and gravelly road in the summer. Since Norway Heights is a private road, each property owner along it, owns it. If there were to be a serious incident involving a renter, all of the properties could be sued both collectively and individually. Posting the property is not effective, and trespassing signs on the breakwalls is not effective.

Rob Malin, Norway Heights – Related that on a recent cruise with his daughter, they happened to meet a fellow passenger, and found this man had recently purchased property on Banner Beach Road in Kendall, with the intent to both use it for himself and to rent it, but was told at his closing that short term rentals are not allowed in Kendall. This falsehood had been passed on by neighbors on Banner Beach. To another point, none of the concerns raised are any different from the concerns about full time neighbors. Full time neighbors and their private visitors speed, also.

Don Pfister, Bald Eagle Drive – stated he is not against short term rentals, but believes limits on the number of them allowed must be set, to protect the future from becoming streets of all rentals. He believes what exists is manageable, but does not want to lose his neighborhood. If the new laws are written to allow those already operating to stay, the small businesses who rely on the renters will not be losing business and should not have to close. The growth of STRs needs to be limited.

Lydia Richardson, Countyline Road – Mrs. Richardson is the Kendall Town Historian and a Deputy Town Clerk. Her statement was as follows, “ I live at 2615 County Line Rd. I am the Deputy Town Clerk as well as Historian for the Town of Kendall and I’d like to start by making it clear that these words and opinions are mine and mine alone. The Town Clerk’s office is often the first place that people go for their questions and concerns. When I’m interacting with the public at the counter, they’re not just talking to me about the dog license they’re renewing, or the questions they have about the new waste pickup schedule, they’re telling me about their work, their families, and their vision for their lives in Kendall. I don’t just hear things from the public, I hear the recordings from the Board meetings, and I hear the concerns and opinions of other Town employees and the Board members themselves. When it comes to the issue we’re all here for tonight, I have gotten the perspectives of both sides of what has now become a divisive argument.

I am not asking that the Board push back the timeline on the vote on this legislation, I am begging it to. There are aspects to this situation that I, both as an individual concerned about the residents of Kendall and as a Town employee concerned about protecting the integrity and public image of my employer, don’t feel have been addressed thoroughly enough to justify moving on to the next step in the process.

I think it's clear to us all that lawsuits are going to follow the passing of these laws. Postponing the vote would allow for assurance that any and all documents, statements, reports, etc. that were involved in the Board's decision-making process are on file with the Clerk's office, which is important not only for fulfilling the numerous FOIA requests the office has gotten but also for defending the Board's stance in any potential suits against the Town. Having a longer period of time before the vote is made means the opportunity to make sure that all concerns have been considered and addressed satisfactorily, not only for the Board but the public also, which would uphold the integrity of the Board's decision-making process. The current STR situation in Kendall does not lead me to believe that there would be anything but benefits to taking some more time to do things thoroughly, with discussions on public record rather than at informal work sessions, and with the long-term implications for Kendall's economy and personal property rights in mind."

John Patterson, Bals Eagle Drive – Enjoys the peace and tranquility of his home on the lake. His personal concern is that allowing any additional short term rentals will turn his road into a business district. He did not express his opinion of the proposed laws.

Jill Albertson, Albion - stated she does rent her home, but occasionally and only to pay the taxes and upkeep of a lake home. The proposed law states that if a home is not rented for six consecutive months, it will lose its license as an STR. Many of these places are, by nature, seasonal. This stipulation would deem nearly all as non-conforming, and is clearly meant to simply extinguish all STRs. This is too harsh and unrealistic.

Steve Lyon, STR owner/operator – stated that he and his wife are not against regulations on short term rentals, but they must be reasonable regulations and not as over-reaching as these proposed laws. Common sense and communication with neighbors is vital. The renters are so enjoyable and should be treated as neighbors. Work together and love each other. The division this issue has caused is saddening.

Anne Caffery, Norway Heights – Has never had problems with neighbors. A few years ago, when the Troutburg project was proposed, and she was told there may be up to two hundred new homes there, and that was approved by the Town, but now a few people wanting to rent their houses out has caused all this fuss because it is next door to some board members. That is not right.

Josh Russo, Kenmor Road – stated that he has heard complaints about potential activities, such as speeding, careless fireworks displays, and trespassing. All are already illegal. The sheriff has assured us that those laws will be enforced. New legislation is not necessary. Secondly, full time

occupants can be as bad as or much worse than a short term occupant. Long term renters sometimes take a year or more to evict. The proposed laws are subjective, unfair, and self-serving, and born of a fear of the future. They also contain exorbitant fees and seem like a money grab. The costs will make renting a vacation spot for friends and family to visit for a few days out of the reach of middle class people. The laws pushing people out of business is elitist and unconscionable.

James Manchester, Lomond Shores, and president of the Lomond Shores Association - the road has thirty eight properties, six of which are used as short term rentals. There have been NO issues with the STRs in the three years Mr. Manchester has been president of that association. Communication is good between neighbors there. The only issues raised have been golf cart use on the road, dogs running loose, and speeding. Those issues have been with permanent residents, not the short term rented homes. The legislation is unnecessary.

Heather Stone, STR owner – stated her surprise at the overly strict laws being proposed to limit “strangers”, when the Town is building a public park at the end of Thompson Drive, which is currently being utilized with no available toilets, no posted rules, no quiet hours stated and is open to everyone. There was no notification to neighbors, and no public hearing held. Mrs Stone appreciates that access is available to the people of Kendall, but this also brings water safety issues, traffic and parking issues, noise issues, and visitors there are unidentified strangers, whereas STR renters are well-vetted and screened. The laws are duplicitous, and extensive. The cost of developing these regulations is frustrating, and seem much more suited to Fort Myers, perhaps. Also, the inequality of rights is illogical where full time residents are free to have parties and park on their own lawns and play music, of course, for instance, but visitors are not.

Jeff Kinne, Norway Heights – He has a large family and frequent get togethers. He worries that if these invasive laws are passed it may be starting down a slippery slope to further loss of freedom. He has several bnbs nearby, and if an issue arose, he would handle that by going to the owners. Simply communicate with your neighbors. The cost of the legal fees to write these laws are out of proportion with any actually need. He has never heard of any problems at all in his neighborhood. This is dividing a small town. Simple rules will be followed, but these proposed laws trample the rights of property owners.

Mr. Albertson – owns property in Kuckville, which he has rented for eight years. He takes care of any neighbor issues immediately. Good neighbors do not need new regulations. Most short

term renters spend a majority of their time away from the rental properties...fishing or sightseeing, or visiting those nearby they came to be close to. The issues with speeders tend to be delivery drivers, not visitors. These proposed laws are unnecessary and a dangerous precedent.

Paul Lauricella, Town of Yates – said that he attended the town board workshop in Yates, where this Kendall law was being discussed. It was said there that this law was written by a crazy person. Every part of it is so excessive. A real concern is that this will be not only a starting point for punitive legislation to continue in Kendall, but could spread to neighboring towns. He feels these laws must die here, and not be enacted.

Rich Miller, Lakeland Beach – loves, truly loves living at the lake and is all in favor of sharing the lakefront and its gifts. He grew up here, and the lake has always been a part of his life. His family left their home in Brockport due to its over-regulation. The exclusivity issue versus sharing is important. Mr. Miller was brought up to value sharing. The new laws are onerous and the fees required, and the insurances required are preposterous. An attorney being paid \$10,000 of taxpayers' money to draft these laws makes that attorney very lucky at our expense. The continental congress at the founding of our nation chose to protect our right to pursue happiness. That happiness includes sharing what we have and feeling good about where we live. Mr. Miller said he respects the town board members and their positions, but equally respects each property owner in the town, and that owner's RIGHT to own that real property, and a right to enjoy that property. This legislation will drive short term rental operators underground. The laws are unenforceable, and onerous.

Dave Manchester, Norway Road – lives next door to a busy Airbnb. There have never ever been any problems. The renters are polite and interesting to meet. The property is perfectly maintained by the hosts and the visitors. People must retain their rights to use their property as they see fit, and use that property to rent to pay their taxes.

Mary Ellen Geise, Kenmor Road – The regulations seem arbitrary, such as limiting a rental to eight people, regardless of the size of the rented homes. Many of Mrs. Geise's relatives utilize our local Airbnb accommodations when they visit, and she loves being able to share what we have here in Kendall. Conversations are what is necessary, not strict new regulations.

Supervisor Cammarata asked that anyone wishing to submit written input do so through the town clerk's office by the close of business Friday.

June Chippendale, Kenmor Road – her parents own a small ranch on Norway Heights, which she will someday inherit, along with her siblings. They will want to keep and maintain that property for their own enjoyment and will have to rent it from time to time in order to keep this family home. To take away that future opportunity to preserve her family's history, by passing these laws now, is unfair. Since the 1960s, when her parents started this home, the shore has developed and changed. This is simply a natural progression of things.

The public hearing was closed at 8:42 p.m.

Respectfully Submitted,

Amy K. Richardson, Kendall Town Clerk