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VIA ELECTRONIC AND FIRST CLASS MAIL

The Honorable Martin L. Hubbard
Mayor of the Village of Skaneateles
26 Fennell Street
Skaneateles, NY 13152

Re: Transient occupancy of property located in the:
(1) Commercial Mixed-Use C District; and
(2) Downtown D District

Dear Mr. Hubbard:

On October 22, 2015, Bond, Schoeneck and King, PLLC ("Bond") was retained by the Village of Skaneateles (the "Village") to serve as Special Counsel for Code Enforcement. Thank you for the opportunity to serve the Village in this capacity. The purpose of this letter is to respond to a request from the Village Attorney to provide our opinion as to what circumstances must exist under Chapter 225 of the Village Code (the "Zoning Law") for a property located in the Commercial Mixed-Use C District or the Downtown D District (the "C or D Districts") to be used in such a way as to allow occupancy by transient guests.

1. Bed-and-Breakfast Homestays

The Zoning Law defines "Bed-and-Breakfast Homestays" at § 225-4 "Definitions" of the Zoning Law as follows:

> "Provision for not more than two sleeping rooms without cooking facilities and only breakfast prepared and served by the homeowner(s) for compensation for transient guests whose occupancy shall not exceed three nights. Such use shall be subordinate and incidental to the occupancy by the owner(s) of a single-family dwelling which existed on the effective date of this chapter."

The Permitted Use Chart of the Zoning Law states that Bed-and-Breakfast Homestays are a conditional use in the C and D Districts "which is permitted only upon securing a special use permit in each case from the Zoning Board of Appeals in accordance with Article X of this chapter." See Zoning Law § 225-11, "Interpretation of Permitted Use Chart". Section 225-40 of the Zoning Law imposes additional requirements on the operation of a Bed-and-Breakfast Homestay.

A special use permit may be obtained to allow a property located in the C or D Districts to operate as a Bed-and-Breakfast Homestay and to accommodate transient guests subject to the limitations stated above. However, without first obtaining a special use permit, an owner of property in the C or D Districts may not operate a Bed-and-Breakfast Homestay by right.

2. Dwellings

The Zoning Law defines "Dwelling" at § 225-4 "Definitions" of the Zoning Law as follows:

> "Any building or structure, or part thereof, used and occupied for human habitation or intended to be so used. The terms "dwelling," "dwelling unit," "one-family dwelling," "two-family dwelling," "multifamily dwelling" and "townhouse dwelling" shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy of less than 30 days."

Depending on the type of Dwelling[1] and its location[2], a Dwelling may be permitted in the C or D Districts either by right, with a special use permit from the Zoning Board of Appeals or with site plan approval from the Planning Board. However, use of a property to accommodate transient occupancy by any person for less than 30 days is not permitted under the Zoning Law in any Dwelling by right. Thus, an owner of a Dwelling located in the C or D Districts may not allow a transient guest to occupy that property unless additional approvals are first obtained.

3. Hotels and Motels

The Zoning Law defines "Hotel" at § 225-4 "Definitions" of the Zoning Law as follows:

> "A building, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances, and which may contain one or more facilities incidental to such occupancy, such as dining rooms, restaurants, meeting rooms, lounges, swimming pools and related incidental uses designed primarily to accommodate the occupants thereof but also open to the general public. (See also "motel," "rooming house" and "tourist home.")"

The Permitted Use Chart of the Zoning Law states that a Hotel is a conditional use in the C and D Districts "which is permitted only upon securing a special use permit in

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[1] Types of "Dwellings" include one-family, townhouse, two-family, multi-family, dwellings above retail space and rooming houses.

[2] The use limitations and permitting requirements vary between District C and District D depending on the type of Dwelling.

each case from the Zoning Board of Appeals in accordance with Article X of this chapter." See Zoning Law § 225-11, "Interpretation of Permitted Use Chart". Thus, while a Hotel use may be appropriate to accommodate individuals for transient occupancy in the C or D Districts, a property owner must first obtain a special use permit before this use could be considered lawful.[3]

4. Lodging

The Zoning Law defines "Lodging" at § 225-4 "Definitions" of the Zoning Law as follows:

> "A building or group of buildings, whether detached or in connected units, containing individual sleeping units intended primarily for transient travelers. Accommodations incidental to such occupancy may be provided, including dining rooms, gift shops, personal services, a bar where nonalcoholic and alcoholic beverages may be served for on-premises consumption, meeting rooms, lounges, swimming pools and physical fitness rooms, to accommodate the resident and invited guests and the general public."

The Permitted Use Chart of the Zoning Law states that a Lodging is a conditional use in the C and D Districts "which is permitted only upon securing a special use permit in each case from the Zoning Board of Appeals in accordance with Article X of this chapter." See Zoning Law § 225-11, "Interpretation of Permitted Use Chart". Thus, while a Lodging use may be appropriate to accommodate transient travelers in the C or D Districts, a property owner must first obtain a special use permit before this use could be considered lawful.

5. Conclusion

The Zoning Law does not allow transient occupancy of property located within the C or D Districts unless a special use permit is first obtained from the Zoning Board of Appeals or the property is otherwise a legal non-conforming use.

The Clerk of the Zoning Board of Appeals has conducted a search of his records in order to identify properties in the C and D Districts that are currently legally permitted to accommodate transient guests. I am told that this list was compiled based on available records and that it is possible that other property owners may be able to submit evidence in the future establishing a similar right. The list provided by the Clerk of Zoning Board of Appeals follows:

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[3] "Motel" is defined separately in the Zoning Law, however, it is not addressed separately in this letter because the Permitted Use Chart combines Hotels and Motels, and thus, they are subject to the same requirements. Also, the definitions of Hotel and Motel in the Zoning Law are similar in their treatment of transient occupancy.

Gray House	47 Jordan Street
Benjamin Porter House	10 State Street
Arbor House	41 Fennell Street
Village Inn	25 Jordan Street
Skaneateles Suites Boutique	12 Fennell Street
Packwood House	14 West Genesee Street
Sherwood Inn	26 West Genesee Street
Hannum House	28 West Genesee Street

Please do not hesitate to contact me if you have any questions regarding the above analysis and conclusions.

Sincerely,

BOND, SCHOENECK & KING, PLLC

Brody Smith

Brody D. Smith