



NOTL man **loses bid** to quash Marotta defamation suit

Richard Harley
The Lake Report

A judge has refused to throw out a defamation suit filed by developer Benny Marotta against a Niagara-on-the-Lake senior who

made critical comments on social media about the prominent builder.

In a ruling last Thursday, Justice Edward Morgan of the Ontario Superior Court in Toronto dismissed an application by Stewart

Hall, who had argued his comments on the NOTL 4U Facebook group should be considered protected speech under Ontario's anti-SLAPP legislation.

SLAPP laws, or "strategic litigation against public

participation," are intended to prevent powerful people or organizations from using the courts to silence public criticism.

The case stems from a June 2024 post in the NOTL 4U group, where Hall

accused Marotta and his companies of engaging in corrupt business practices, offering bribes to politicians and employing aggressive tactics against opponents.

Hall's post followed a controversial 5-4 town

council vote that approved Marotta's proposal to build a hotel on the former Parliament Oak school site, which he purchased in 2022.

Continued on Page 4

Election 2025

Kaiser and Baldinelli run head-to-head in federal election for **third time**

Julia Sacco
Local Journalism Initiative
The Lake Report

All four major parties in Niagara-on-the-Lake's riding have announced their candidates for the snap federal election on April 28.

As of Wednesday afternoon, the New Democrats have selected Shannon Mitchell as their candidate for the Niagara Falls—Niagara-on-the-Lake riding.

Lifelong Niagara-on-the-Lake resident Andrea Kaiser is the face of the Liberal Party for the riding, facing off against incumbent Conservative Tony Baldinelli.

This year, NOTL's election riding excludes Fort Erie, a municipality that was included in past elections.

The riding now includes Niagara Falls and Niagara-on-the-Lake, reflected in its name.

Kaiser has run as the Liberal candidate for NOTL's riding twice before, once in 2019 and again in 2021.

Continued on Page 3

THE WILD WEST OF WINE

Bylaw bypass: Does zoning matter?

How a farm winery isn't following the rules, bylaw enforcement is practically non-existent and competitors are getting frustrated

This is the first in a series of stories about NOTL's "Wild West" of wineries, examining zoning bylaws, restrictions, how some wineries are ignoring those bylaws and restrictions and operating as they please, and how the Town of Niagara-on-the-Lake doesn't appear to be enforcing its own bylaws. And we look at whether the solution is to change the rules to ease restrictions or crack down on those who aren't following the existing rules.

Paige Seburn
Local Journalism Initiative
The Lake Report

Niagara-on-the-Lake has a wine problem.

Well, a winery problem. And it centres around the rules for how wineries are allowed to operate.

Under the town's bylaws, there are two distinctions for wineries: Smaller-scale operations are classified as farm wineries, while larger facilities are zoned as estate wineries.



Ferox by Fabian Reis winery has caused a stir in the wine industry. It appears to be operating outside town laws, bringing NOTL's winery zoning requirements and enforcement practices into question. PAIGE SEBURN

With those distinctions come sets of rules for what's allowed — and, importantly, differences in the ways the two operations are taxed.

Farm wineries, which pay only agricultural taxes besides the commercial taxes paid on their maximum 18.5-square-metre re-

tail space, face many restrictions. They cannot host events, can't operate commercial kitchens or serve food of any kind, and are not allowed to have hospitality rooms or dining areas or patios.

Essentially, unless farm wineries have a site-specific permission granted by the town, they

can only produce and sell wine. They can operate a small retail space, where wine tasting is allowed, but can't sell anything besides wine produced on the property, from the grapes it grows on site.

Continued on Page 6

Bikes for Farmworkers is in **dire need** of donations

Paige Seburn
Local Journalism Initiative
The Lake Report

Time to dust off those bicycles sitting in your garage and give them a new life.

Bikes For Farmworkers is

running out of bikes — fast. With fewer than 60 left, it urgently needs adult bike donations to help migrant farmworkers get around Niagara-on-the-Lake this spring and summer.

"Generally, at this time

of the year, we would have at least 150 bikes all ready and refurbished to go out for sales," said Dave Cox, volunteer with the program.

"This is the worst it's been, and I've been here since 2019."

Bikes For Farmworkers is a volunteer-driven outreach organization through Gateway Community Church, selling reconditioned bikes to seasonal farmworkers annually since its inception in 2017.

The program's supply has been dwindling.

In 2022, the program had 420 bikes, but by 2023, that number dropped to just 368. Last year, only 150 bikes



Volunteer Dave Cox with one of the few bikes left.

Continued on Page 5

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Complaint-based enforcement ‘pits neighbours against neighbours’

Continued from Front Page

Estate wineries, which pay much higher commercial taxes because of their secondary uses, are permitted to hold events, have larger retail spaces, and offer hospitality rooms where wine and food can be served without the use of commercial cooking equipment.

Farm wineries must grow, crush, ferment and bottle all wine on-site. Estate wineries must also crush and ferment on-site, but can source grapes from anywhere in Ontario after first attempting to use fruit from NOTL and then the Niagara Region. Bottling must be possible to do on-site, but is not a legal requirement.

While these rules are clearly spelled out in by-laws, some wine producers don’t seem to be following them, and the town’s enforcement of those bylaws has been called into question by competing wineries.

The issue has raised a larger question of what is fair, how wineries that aren’t following the law should be treated, and whether those laws need to be updated to reflect a changing wine industry.

Farm winery appears to be skirting the rules

Ferox by Fabian Reis, at 1829 Concession 4 Rd., is classified as a farm winery but appears to be operating as an estate winery.

The winery, owned by Fabian Reis and his wife Stephanie, serves food, operates a patio, hosts events and doesn’t appear to be using 100 per cent of its own grapes in the production of its wine.

Reis’ father, Bruno Reis, and his mother, Claudia Konzelmann, are both executives with NOTL wineries, at Reif Estate Winery and Konzelmann Estate Winery respectively.

His grandfather, the late Herbert Konzelmann, was a key figure in shaping and guiding the Niagara wine industry.

With both parents in key roles at estate wineries — subject to different regulations than farm wineries — Reis is no stranger to the industry’s rules and distinctions.

It’s unclear exactly how long Ferox has been operating as an estate winery, but Tripadvisor reviews from someone named Rose indicate it has had a patio since at least April 2023 and Ferox’s Instagram shows it has been preparing food for retail sale to the public for immediate consumption

— defined by the town as a restaurant — since at least February 2022.

Reis has not responded in detail to several requests over the past month for comment nor to an extensive list of questions from The Lake Report to clarify Ferox’s operations.

However, online images, customer reviews and the company’s own OpenTable descriptions show Ferox offering a hospitality patio, restaurant-style meals and events. Meanwhile, under NOTL’s rules, all it should be offering is — at most — wine tastings.

A question of fairness

Other winery operators, like Paul Harber, brand manager and proprietor of Ravine Vineyard Estate Winery, are asking why there are restrictions in place at all, if they aren’t going to mean anything.

He says wineries that skirt the rules — and the town’s lack of enforcement of its own bylaws — create an unfair playing field for wineries that are doing things by the book.

“Out of respect to the industries that we’re in, or the community that we’re operating in, we should follow the rules,” he said. “I’m not a fan of begging for forgiveness instead of asking for permission.”

He is wondering why the town is allowing wineries to operate illegally, why some operators aren’t respecting the bylaws and what needs to be done to remedy the situation.

Harber doesn’t want to see any winery shut down, but he wants a level playing field and questions why the bylaws, which were passed more than 30 years ago, are in place at all if they aren’t obeyed and the town isn’t actively enforcing them.

“Everybody should come through the front door on what they truly intend to do and want to be,” Harber said. “The town and the businesses should work together.”

“Not everybody will get what they want, but let’s try to get everybody to at least get what they need,” he said.

Part of the problem is that the town only investigates a bylaw infraction if it receives a complaint. So far, there have been no complaints about Ferox.

And even if a complaint is filed, the town tries to “engage and educate” before it takes action, according to Kirsten McCauley, NOTL’s director of community and development services.

McCauley said the town



Some of the questions that went unanswered

The Lake Report submitted the following questions to Fabian Reis. They have gone unanswered for over a month.

Has Ferox hosted tastings in separate spaces or events without proper permits? Reviews and social media posts describe tastings in indoor spaces not currently zoned for them.

For your extensive menu of more than 10 items, such as house cured salmon and cornish hen, do you use commercial cooking equipment?

On OpenTable, Ferox has a profile which identifies The Patio @ Ferox Winery as a farm-to-table outdoor pop-up restaurant. Is this accurate?

Where do you source your grapes? Your proposal said predominantly locally — what does that mean?

How do you respond to those who feel Ferox’s approach to estate winery designation has been more about asking for forgiveness rather than asking for permission?

Is Ferox currently allowed to have a restaurant on site? Does it or has it at any time?

Has Ferox been operating under the conditions of a farm winery?

Has Ferox been operating under the conditions of an estate winery?

Is Ferox currently allowed to have a commercial kitchen on site? Does it or has it at any time?



Top: A road sign advertises the winery’s patio and food pairings, despite it not being legally zoned for such operations. PAIGE SEBURN
Bottom: Fabian Reis, owner of Ferox winery, in a Facebook photo. SOURCED

“does not actively monitor postings on the Ferox Winery social media accounts or related messaging directed at the general public.”

If a complaint is filed and an issue is identified, the town notifies the owner and gives them a chance to address it or seek the necessary approvals.

Enforcement is only pursued if the town’s efforts to educate the owner are unsuccessful.

Harber said that approach is unfair.

“If you’re not doing anything until a complaint comes in, you’re then kind of pitting neighbours against neighbours. That’s not a good way to go about things. People shouldn’t have to call each other out for being offside,” he said.

Given that no complaints have been received about Ferox, it has not been investigated by the town.

Wineries can apply for special event permits, but McCauley said Ferox has never applied for one, nor does the town have records of past hospitality events at Ferox.

Zoning request further complicates things

The matter got even more complicated when Ferox submitted an application for estate winery status on Nov. 19, 2024.

It’s a layered situation involving two properties with combined acreage. One of the two properties owned by the winery — the site of the former Harvest Barn and briefly Alitura — already has estate winery status. However, the property where Ferox sits and operates does not.

During its presentation, the winery sought permission for its “future” hospitality room, kitchen and patio. The presentation also suggested the winery is us-

ing grapes sourced off-site.

Questions sent to Reis to clarify Ferox’s operations also went unanswered, but it appears that Ferox is asking permission to do things it has already done.

While the requested zoning change is still being evaluated by the town, it raises ethical questions about granting permission to operators who might not be complying with town bylaws.

Currently, the size of the winery is the town’s main focus. An estate winery must be at least 8.09 hectares and Ferox is only 4.27 hectares.

The only thing Reis would comment on is that he wants to transfer this existing estate licence to Ferox.

“It’s all being dealt with by the planners,” he said.

But the bigger question seems to be whether the town should grant the estate status, given that the winery already appears to be operating as an estate winery without permission and without paying commercial taxes on its secondary uses like hosting events, serving food and operating a patio.

Harber says the whole situation raises further questions about what is fair. He wonders whether the town would grant estate sta-

tus to a winery that doesn’t meet the requirements and has been ignoring the town’s rules already.

A question of law

The situation also raises questions about whether the current zoning system is still relevant in 2025.

Town councillors had varying opinions on whether the zoning requirements need to be reviewed, as well as whether enforcement standards need to change.

Coun. Andrew Niven, who is well-versed in the wine industry as director of marketing and hospitality at Konzelmann for 12 years, doesn’t think the zoning laws are outdated.

He said many of the businesses not following the rules likely aren’t aware of their violations. He sees the need for something like a “welcome package” to provide businesses with clearer guidance and expectations surrounding zoning requirements.

“There’s a way to be more proactive to make (businesses) aware of such bylaws — then we may see more compliance,” he said.

This approach relies on businesses wanting to follow the rules, which Niven said he hopes is the case.

Lord Mayor Gary Zalepa does not see a need for updated bylaws and blamed previous councils for what he says is an outdated official plan. Council has prioritized getting that updated, he said.

“That process will include things that will feed into the bylaws and regulations around property use,” he said.

He encouraged businesses and residents to contribute their opinions.

“The official plan process is a perfect opportunity to give your input and your opinion,” he said. “Then we can review that and consider how we can make that process better for all businesses and residents.”

Coun. Erwin Wiens, who previously was a part-owner of the Harvest Barn property, agreed with Zalepa. He doesn’t think the zoning system is broken and said his preference is to “bring people into compliance through good planning.”

“I think it works great the way we have it now. You know, there’s always hiccups along the way, but the system really works well,” he said.

Zoning regulations were initially established at least 30 years ago to balance

Continued on Page 7

Councillors have mixed opinions on bylaw

Continued from Page 6

provincial regulations with municipal policies and were designed to protect farmland, he said.

“I’m very comfortable with how the town previously came to how we had those rules,” he said.

The town’s original restrictions on wineries date back 45 years, to 1980, but the main bylaws governing estate and farm wineries were passed in 1994, said the town’s communications co-ordinator Marah Minor.

Wiens also values the complaint-based system of enforcement.

“Our goal is to get compliance, not convictions,” he said. “But then, if we have to go to conviction, that is the system. And I’m a big fan of the system.”

As far as enforcement goes, he doesn’t want to see the town spend money to hire more bylaw officers, but said he is “always open to slight adjustments.”

He clarified that when making a complaint, the burden of proof does not fall on the complainant. Bylaw staff conduct a full investigation, determining the best course of action. But he said thorough information in a complaint is always helpful.

Coun. Maria Mavridis had a slightly different take.

“There’s a lot of bylaws that we’re looking at to update, like even the noise bylaw, and all sorts of bylaws and policies,” she said.

When it comes to enforcement, she said bylaw officers should conduct regular visits, similar to health and safety inspectors, to help en-

sure compliance and avoid confusion.

But finding the balance is tricky, she said, and she thinks an updated system could be necessary to enforce fines or issue compliance notices.

Mavridis, Niven, and Wiens agreed if a business realizes it isn’t operating legally it should pause any illegal operations until it addresses the concerns, but Zalepa doesn’t particularly think so. He says businesses should work with the town to bring their situation into compliance.

Harber, on the other hand, said Ravine has always obeyed the process and doesn’t think it’s fair that others aren’t being held to the same standard.

For him and other operators, it’s not just semantics.

There are tax implications and other concerns.

And it raises the question of whether a winery that’s been following the rules has been systematically hurt by the town’s lack of enforcement of its own bylaws.

If the illegal operators aren’t incurring costs that a legal operator is, then Harber argues it creates an uneven playing field in which a good actor is essentially punished for following the rules.

On the other side of the coin, are farm wineries that obey the rules, and are making less profit because of it, also hurt by this? And who is at fault, the bad actors, or the town? Or both?

Time will tell if the town approves estate winery status for Ferox.

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Social media tells story of Ferox operations

Paige Seburn
Local Journalism Initiative
The Lake Report

With its current zoning, Ferox by Fabian Reis is not permitted to hold events, nor have a hospitality room or patio.

But a Google review from user Jamie O’Donnell four months ago describes “indoor tasting rooms on both ground and second floors.”

Ferox’s website states, “We strive to host a variety of events for all our guests at the winery. From live music to dinners to pick-up parties, there is always something happening at Ferox!”

It is one of many online posts about what Ferox has to offer at its site on Concession 4 Road.

Three years ago, a Jan. 28, 2022 Instagram post on Ferox’s account promoted a gourmet, \$250 per person four-course meal for Valentine’s Day in its “intimate barrel cellar.”

This past Nov. 22, an Instagram post promoted a Dec. 1 event offering the public wine, food, music and vendors, which appeared to take place in the production barn.

An Aug. 6 Instagram mention also promoted a “Truffles x Ferox” event offering a four-course meal for 40 guests, which also appeared to take place in the production barn.

An event on the patio has been promoted, too. An Oct. 5, 2023 Instagram item advertised an Oct. 13, 2023 pet fundraiser on the



Ferox’s Instagram doesn’t shy away from promoting its events, which the winery is not permitted to host.

patio with a menu featuring lobster grilled cheese and Wagyu beef hot dogs.

That patio, which already exists, is part of Ferox’s “planned” expansion, should it receive estate winery status.

Farm wineries typically aren’t allowed patios either — amendments and agreements under the Ontario Planning Act are required — and if approved, a site plan control process must follow, said the town’s communications co-ordinator Marah Minor.

Consulting firm NPG’s planning report describes the “proposed” patio as an agriculture-related space for wine tastings with food pairings.

Minor said the patio would be located between the retail barn and the production building. However, online reviews and images show the patio already operating with seating that exceeds what’s outlined in Ferox’s application.

O’Donnell’s review said: “Upstairs is a small balcony with a few seats looking over the vineyard. Small outdoor seating areas are at the front and side of the

OpenTable and lists more than 10 extensive menu items, such as house-cured salmon and Cornish hen.

However, under the town’s bylaws, Ferox technically can’t even offer customers something as small as a cheese board.

Meanwhile, that Aug. 6 post states “40 guests enjoyed a 4-course meal curated by @thepatio_ferox, spearheaded by Chef @adriano_cpz.”

A Google review by user Rick M on Oct. 24 also mentioned more dishes, including squash gnocchi.

And a June 9, 2023 post had sausages and oysters prepared on a grill outdoors. Plus, the post for Dec. 1 said “chef @alexeats will be doing two scheduled food and wine pairings.”

Ferox’s website says its “food program” is temporarily offline but plans to re-open. Its OpenTable profile describes the restaurant as weather-dependent, though a March 3 Google review from Brenda Harwood mentioned “hors d’oeuvres.”

Fabian Reis, who owns the winery with his wife Stephanie, has not responded to multiple requests for comment or The Lake Report’s questions on Ferox’s operations.

He only stated that: “We all know there’s an existing estate licence already at Harvest Barn and all we’re doing is — we want to transfer it to our location over at Ferox.”

“So, that’s all that can be said at this point.”

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