



Joint Submission on Rental Housing for the City of Hamilton

June 18, 2013

The REALTORS® Association of Hamilton-Burlington and the Hamilton and District Apartment Association began meeting in February to collaborate on potential solutions to the rental housing issues facing Hamilton. These meetings arose from a motion by the City of Hamilton's Planning Committee:

MOTION: (Ferguson/Partridge)

That the Hamilton Real Estate Board and the Hamilton Apartment Association be requested to provide a solution to illegal apartments and, in particular, student residences in an effort to respect neighbourhood concerns and tenants' safety and that staff be directed to provide necessary statistics to both associations.

CARRIED

After discussing the complexity of issues over the last several months, the Task Force has established a framework which would effectively address 'illegal apartments'. Concerns surrounding the 'student residences' are addressed separately later in this report.

In order to preserve much needed existing rental stock in our community and halt the shut-down of unregistered apartments at will while addressing issues of safety, we initially recommended that the City of Hamilton consider adopting the concept of a **PERMITTED USE CERTIFICATE for insufficiently zoned housing units**. After meeting with staff, this approach was rejected due to anticipated legal contradictions within the zoning by-laws. However, during our second meeting with staff, City staff brought to our attention that the City already had a provision for accessory units "as a right" throughout most of the zones in the City of Hamilton. Following that meeting, City staff directed us to Section 19 of Hamilton's current zoning by-law. We noted that in Section 19, the conversion of these units under Section 19 does **not require a re-zoning** application; all that is required is a **building permit**. After carefully examining Section 19, it became clear that the provisions contained in Section

19 closely resembled our initial concept of a Permitted Use Certificate. Credit must be given to the authors of Section 19 for their vision of how to address the need for housing in a logical and cost effective manner. It is unfortunate that the intent and purpose of this Section seem to have been lost to City staff, REALTORS®, landlords and the public over the years.

Section 19 of the Zoning By-law says, in part:

SECTION NINETEEN - RESIDENTIAL CONVERSION REQUIREMENTS (92-281)

19. (1) "AA", "B", "B-1", "B-2", "C", "D" and "R-2" Districts

Notwithstanding anything contained in this By-Law, any single family detached dwelling in an "AA" (Agricultural), "B" (Suburban Agriculture and Residential, etc.), "B-1" (Suburban Agriculture and Residential, etc.), "B-2" (Suburban Residential), "C" (Urban Protected Residential, etc.) and "D" (Urban Protected Residential - One and Two Family Dwellings, Townhouses, etc.) and "R-2" (Urban Protected Residential - One and Two Family Dwellings) Districts may be converted to contain not more than two dwelling units, provided all the following requirements are complied with:

- (i) each dwelling unit has a floor area of at least 65 square metres (699.65 square feet), contained within the unit and having a minimum clear height of 2.1m (6.9 ft.), but excluding the area of the cellar, if any, and of any porch, verandah or other such space which cannot lawfully be used as living quarters;*
- (ii) The applicable zoning district regulations for a single family detached dwelling shall apply, except the minimum lot area shall be 270m²;*
- (iii) except as permitted in clause (iv), the external appearance and character of the dwelling shall be preserved;*
- (iv) there shall be no outside stairway other than an exterior exit;*
- (v) parking spaces, access driveways and manoeuvring space shall be provided in accordance with Section 18A, except that parking for only one of the dwelling units may be provided in accordance with the following special provisions:*

Location

(1) it may be located in a required front yard provided that the area for parking, manoeuvring and access driveway shall not occupy more than 50% of the gross area of the front yard; (93-063)

(2) not less than 50% of the gross area of the front yard shall be used for a landscaped area, excluding concrete, asphalt, gravel, pavers or other similar materials;

(3) manoeuvring for the parking space may be permitted off-site; and,

(4) where a side yard abuts a street line, not less than 50% of the gross area of the side yard be used for a landscaped area excluding concrete, asphalt, gravel, pavers or other similar materials. (94-145)

Similar requirements for other zoned areas are outlined in Section 2, as well as "H" zoning:

(2) "DE", "DE-2", "DE-3", "E", "E-1", "E-2" and "E-3" Districts

Notwithstanding anything contained in this By-Law, any dwelling in a "DE" (Low Density Multiple Dwellings), "DE-2" (Multiple Dwellings), "DE-3" (Multiple Dwellings), "E" (Multiple Dwellings, Lodges, Clubs, etc.), "E-1" (Multiple Dwellings, Lodges, Clubs, etc.), "E-2" (Multiple Dwellings) and "E-3" (High Density Multiple Dwellings) Districts may be converted to provide two dwelling units or more, provided all the following requirements are complied with:

....

Currently, Section 19 of the Municipal Zoning By-Law has not been effective in bringing illegally zoned rental units into compliance. We do believe, however, that with the modification of this section using our suggestions below, Section 19 would be a catalyst for more effective compliance and preservation of rental stock. **A revised Section 19 would apply not only to single family homes with accessory suites, but also to multi-family properties with additional apartments which may currently be in zoning contravention.** We submit and incorporate all of these ideas to you, presented under our new initiative entitled:

The Sustainable Safe Housing Compliance Program

MISSION STATEMENT

- *To facilitate, with exceptional service, clear direction and effective resources, the promotion of new and the preservation of existing accessory housing as allowed “as a right” under Section 19;*
- *To provide property owners with a simplified, one-stop solution to the entire process, constantly seeking ways to keep costs down and participation high, and to eliminate any in-house obstacles.*
- *To help the customer;*
- *To measure and nurture success by the number of housing units added to the City's inventory.*

The Keys to Success:

In order for this program to gain traction with property owners and other stakeholders, four key elements are essential for widespread buy-in.

- 1) Staff embracing the “re-think” as outlined in the Mission Statement
- 2) A streamlined process for acquiring a Building Permit
- 3) Amendments to Section 19 to better reflect current housing conditions
- 4) Public awareness through education and easily-accessed information

1. Staff embracing the “re-think” as outlined in the Mission Statement

If the City is to *facilitate, with exceptional service, clear direction and effective resources* the process for rental unit owners to bring their properties into compliance with the City's by-laws, there must be a buy-in from City staff to provide that exceptional service and clear direction. It is our experience that information provided about zoning requirements and processes is inconsistent and often contradictory – it all depends who you talk to. What is required is that City staff be trained specifically on the requirements of Section 19 of the by-laws so they could speak knowledgeably to rental unit owners about what is required to bring their properties into compliance with the by-laws and Section 19.

2. A streamlined process for acquiring a Building Permit

There needs to be a process that allows property owners to submit the necessary requirements without incurring major expense. We all agree that safety is the primary concern, and this can be achieved by creating a “Tool Kit” for property owners with simple “step by step” instructions in order for the subject property to be in compliance. We are attaching as Schedule A a brochure entitled *Second Suites: An Information Guide for Homeowners* from the City of Toronto. This brochure explains for homeowners the process for obtaining permission for secondary suites and we recommend it as a template for the City of Hamilton.

We also note the example of the City of Toronto's one-stop shop for secondary suites and the City of Hamilton's one-stop shop for business, and recommend a similar one-stop experience (on a smaller

scale) for secondary suites. This one-stop shop would streamline the process of obtaining a building permit and make it more attractive for rental unit owners to come to the City to legalize their units.

It is worth noting that the City should realize revenue from building permits as a result of this streamlined process which encourages rental housing owners to come forward. This is in contrast to the expense which would be incurred in setting up and enforcing a licensing program which is unlikely to encourage anyone to come forward.

Additionally, part of the Building Permit process is the final building inspection, which would allow access to the premises:

3. Amendments to Section 19 of the zoning by-law:

The requirements contained in Section 19, while not overly onerous, will nonetheless exclude many good housing units because of requirements inconsistent with specifications widely recognized and used for new construction and also inconsistent with the requirements of the Ontario Building Code. To ask for higher standards for secondary units than are required for new construction only serves to take otherwise good rental units out of circulation. Therefore, we recommend the following amendments:

- 1) Change the floor area to comply with the Ontario Building Code Section 9.5, Designs of Areas and spaces (attached as Schedule B, *Section 9.5 Design of Areas and Spaces* of the 2006 Ontario Building Code). You will note that minimum floor areas required for "dwelling units" are 145 square feet for studios; 223 square feet for one-bedroom units, 298 square feet for two-bedroom units and 373 square feet for three-bedroom units, assuming that the living room/dining/kitchen is one open area. These areas are exclusive of bathroom facilities, which can be approximated at about 50 square feet (a bathroom must contain a water closet, a lavatory and a bath or shower stall).
- 2) Change the definition of "basement" (wherever it appears in Hamilton by-laws) to a definition similar to the City of Toronto's: "BASEMENT - A storey of a dwelling which is below ground level, and includes a cellar."
- 3) Change minimum clear height from 6 feet 9 inches to 6 feet 2 inches with variances for bulkheads.
- 4) Remove the minimum lot size or change to a minimum 120m².
- 5) Study the parking provisions and amend requirements to allow maximum compliance.

Please note these recommendations are in line with provisions in the Ontario Building Code and that higher requirements would be in contravention of the Human Rights Code (see Schedule C, *Report on the inquiry into rental housing licensing in the City of Waterloo* and Schedule D, *Room for everyone: Human rights and rental housing licensing*, attached).

4. Public Awareness:

It was surprising to members of this task force - working professional REALTORS® and experienced landlords - that Section 19 contains such clear and effective provisions to allow accessory units without a Re-Zoning Application or a Committee of Adjustments Hearing; in fact, all that is required is the **building permit**. If we didn't know this, then the general public surely does not and our experience is that City staff may also be unaware of it. RAHB and HDAA are willing to educate our

members about how rental unit owners can obtain a building permit for their accessory units if the City undertakes to educate staff and the public as to the process involved.

ILLEGAL UNITS SUMMARY

We state again that we cannot endorse or support a rental licensing program. We believe licensing would not serve the City, landlords or tenants:

1. Licensing will not assist the City in their desire to gain access to rental units, as the current Residential Tenancies Act and human rights legislation take precedence in this area.
2. It is costly to landlords and therefore to tenants, as the cost of licensing would surely be passed down to tenants.
3. Licensing would serve to take otherwise good rental units out of circulation – this is not a situation that would help the shortage of affordable rental accommodation in this city.
4. Licensing would be costly and difficult to enforce for very little actual, positive gain.
5. Adopting the SUSTAINABLE SAFE HOUSING COMPLIANCE PROGRAM and enforcing (with discretion) current bylaws would encourage landlords to bring their now-illegal units into compliance, the City would have a more accurate account of how many rental units exist and where they are located and much-needed affordable rental units would be saved and developed.

We understand that safety, maintenance and property standards are a concern for the City and for the community. We would like to point out that safety, maintenance & property standards already exist and are enforceable through the Residential Tenancies Act, local by-laws and provincial Fire Code.

Residential Tenancy Law started in 1975 and undergoes revision on a regular basis. The most current legislation is the **Residential Tenancies Act (RTA)**, 2006, which was last amended in 2012. If a provision of this act conflicts with a provision of another Act (i.e: local by-law) other than Human Rights Code, the provision of this Act applies and takes precedence. Post-secondary institutions such as McMaster and Mohawk College which provide housing to students are exempt from the Act.

This comprehensive Ontario provincial legislation currently is made up of 28 Sections and is almost 300 pages in length. The Act governs all residential rental activity in the province and outlines the responsibilities and conduct of parties, notices, rules and remedies available to effectively address problems.

Sections of the RTA are focused on Safety, Property Standards & Maintenance: Section 3 (Landlord's Responsibilities) states:

A landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards. 2006, c. 17, s. 20 (1).

Section 14 (Maintenance Standards):

This section is dedicated to Maintenance Standards, and upon consumer complaint, will order an inspection of the property through municipal by-law and property standards. If

violations or sub-standard conditions are found, a work order is given to the Landlord to comply.

Tenants currently have avenues available to address safety or maintenance issues either by calling By-law Enforcement (in cases of sub-standard conditions or unresponsive maintenance requests), and mechanisms within the RTA, brought forward through the Landlord Tenant Board such as rent abatements, orders prohibiting rental increases or orders to comply.

In addition to these enforceable provisions within the local by-laws and Residential Tenancies Act, Property owners must also be in compliance with The Provincial Fire Code, which in most cases requires annual safety and alarm testing. Failure to comply with this Code can result in significant fines and exposes the operator to immense liability.

The Proposal: Student Housing and General Tenancies

It is unfair to suggest all problems that stem from 'Student Housing' are the sole fault of landlords, REALTORS® or property managers. If there is blame to be cast toward current conditions of student housing, then there must be equal ownership or blame taken by students toward these conditions. Our concepts pertaining to student housing are outlined in the following four major points, with the desire to work with McMaster University Off-Campus Housing and affiliate organizations, the MSU and Town and Gown Association.

1) Create a Noise Response Team

The largest single issue which property managers, neighbours or communities have to contend with is noise. Whether it is disputes between apartment dwellers, house to house, or house to apartment, greater support is needed to keep the peace. In this regard - and as already suggested by some members of city council - we would all benefit from the creation of an effective Noise Response Team. This initiative would directly target problem occupants (not owners/managers), and have a graduated/escalating fee schedule for any recurrences. It is our understanding that the City has already taken steps in this regard.

2) Develop What the Neighbourhood Demands

Neighbourhoods around McMaster and Mohawk should be designated to allow purpose-built student rentals, and should allow for higher density developments. If neighbourhoods already include a high percentage of student/ renters, better quality mixed-use commercial development should be allowed and encouraged with this demographic in mind, rather than attempting to revert these neighbourhoods back to their original use.

3) Implement an Off-Campus Student Code of Conduct

McMaster University should be encouraged to follow Mohawk College's lead in establishing an off-campus student code of conduct. Mohawk's program – a collaboration between Hamilton Police Services, the College, and By-Law Enforcement – has been, according to property owners, effective in mitigating unruly behaviour and has wide reaching consequences for students which do not adhere to their rules. If this post-secondary institution can implement such measures, there appears to be no reason McMaster can't do the same. (see Schedule E, *Mohawk College student behaviour policy* and Schedule F, *Housing Mediation Service helps landlords, student settle disputes*).

4) Create an Ombudsman's Office/Mini-Tribunal

Ombudsman - Very similar to many agencies, banks, and a service the University already employs, an impartial mediator/neutral body would assist in dispute resolution between parties. In this case it would assist in disputes between students and community, landlords and students, landlords and homeowners (outside of attempted prosecution or court).

Mini-Tribunal - Through the same department, in cases of cautionary/questionable Sustainable Safe Housing Conversion Program applications (where applicants' or property addresses which may have a history of by-law or other infractions), a mini-tribunal could be established by stakeholders to review and decide on the merits of such applications. The tribunal's scope would be limited to adjudicating more difficult cases only, meetings could be held once-a-month, decided by electronic means, and voted upon.

REPORT SUMMARY

We believe our proposal provides a solution for safety and concerns to be addressed, while offering rental property owners the opportunity to bring forward otherwise 'illegal' rental units without fear of prosecution. We also believe our solution will provide a safe and responsible way to preserve the majority of much-needed housing units that are currently threatened by the City's own efforts to improve affordable housing.

In preparing this report, RAHB and HDAA have been influenced by, and are in compliance with, the Government of Ontario's recent legislation changes to the **Planning Act** entitled **The Strong Communities through Affordable Housing Act, 2011**.

Quoting the Ontario Government:

The Strong Communities through Affordable Housing Act, 2011 amended various sections of the Planning Act to facilitate the creation of second units by:

- *Requiring municipalities to establish official plan policies and zoning by-law provisions allowing second units in detached, semi-detached and row houses, as well as in ancillary structures*
- *Removing the ability to appeal the establishment of these official plan policies and zoning by-law provisions except where such official plan policies are included in five-year updates of municipal official plans*
- *Providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second units.*

While the Act introduced a regulation-making ability for the Minister of Municipal Affairs and Housing to prescribe minimum standards for second units, a regulation has not been issued under this authority. As such, municipalities are responsible for determining what standards or zoning provisions should apply to second units in relation to matters such as minimum unit size or parking requirements. Standards should support the creation of second units.

We believe our solution will meet the objectives of this legislation while addressing Hamilton's unique problem of having many unregistered housing units. **The Sustainable Safe Housing Compliance Program** uses already-existing elements of Section 19 and, with only minor changes, effects a positive outcome for the City, for owners of rental housing units and for those in need of affordable rental housing.

Project Compliance/Proactive by-law enforcement

The manner in which Project Compliance has been operated has been far too aggressive. The spirit of improving the housing stock is valid; however the scope must be narrowed or refined to make better use of the City's resources and address only serious safety issues. We would recommend that the proactive enforcement program be suspended until further review, and revert back to a complaint driven process until the scope of the program becomes more clearly defined. Issues such as property standards, lawn parking or other basic matters may still continue to be enforced.

Conclusion

We appreciate this opportunity to offer our solution and alternative to rental housing licensing. We have received valuable assistance from City staff and we look forward to a continuing and mutually beneficial relationship with the City.

Respectfully submitted

REALTORS® Association of Hamilton Burlington and the Hamilton and District Apartment Association

Second Suites

An Information Guide for Homeowners



SECOND SUITES GUIDE

This guide explains what it means to operate an authorized second suite in a private house. It describes established standards that help ensure that houses with second suites are safe and livable both for you and for your tenants.

In Ontario, municipalities regulate residential zoning by-laws for second suites. These regulations have changed over time, and not all homeowners may be aware of the changes, nor of the complexities of creating a second suite.

To help you navigate through the regulations and requirements, the Landlord's Self-Help Centre has compiled the information that you need to operate a second suite and to address any community concerns. Knowing the standards will give you greater peace of mind and help you reduce your liability as a landlord.

We welcome feedback on this guide, and offer additional information on our web site www.landlordselfhelp.com. We encourage you to get in touch with any comments or questions you may have.

WHO IS INVOLVED?

In creating or upgrading a home with a second suite, you will encounter many city departments, associations and community agencies. *Be prepared:* there may be costs associated with permits and inspections by government officials.

Building Department

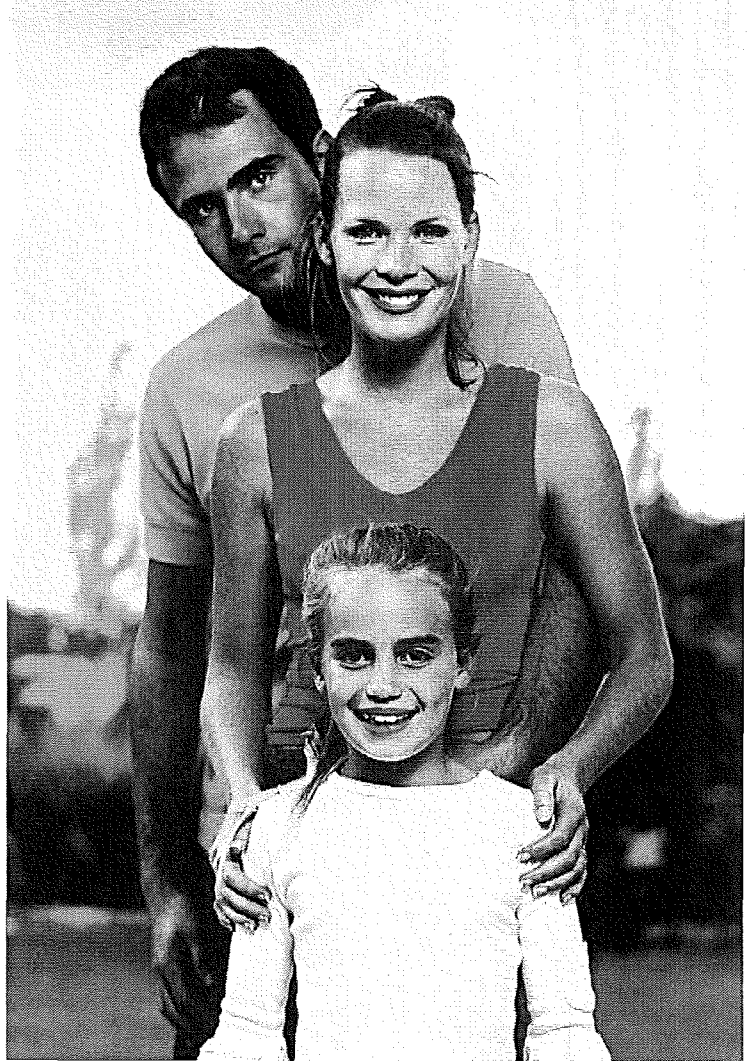
These city officials deal primarily with newly created suites and construction. They review zoning and building plans and administer construction permits.

Municipal Licensing and Standards

These city officials deal primarily with upgrading second suites. They review property standards and municipal codes, carry out inspections to ensure compliance with by-laws, and respond to complaints from neighbours about second suites.

Fire Services

Municipal fire services will perform fire safety inspections and provide confirmation letters about the fire safety of a house with a second suite.



Electrical Service Authority

This is a provincial, not-for-profit organization that ensures that wiring and electrical service to second suites comply with the necessary regulations and provides confirmation letters to document this compliance.

Community agencies

Many community groups provide public education on second suites and offer services to help tenants and landlords, including:

- mediation and conflict resolution;
- referral services;
- advertising space on bulletin boards, in newsletters or through Web sites; and
- information and referral services.

These agencies include housing organizations, community health centres, and clinics like the Landlord's Self-Help Centre.

THE BENEFITS OF SECOND SUITES

Authorized second suites can provide safe and affordable housing for Toronto residents. An estimated 20% of all secondary rental stock in Toronto can be found in private homes containing second suites. Despite fluctuating vacancy rates, second suites tend to be 10% to 15% cheaper than regular low-rise and high-rise apartments.

Second suites have a variety of tenants. Some may house aging parents who want to remain independent, but need support, adult children who have completed their education and are starting their careers. Others provide affordable housing for tenants in established neighbourhoods, close to jobs, transit and shopping. Homeowners benefit too, since the rent from a second suite can fund renovations or mortgage payments. Finally, the whole community benefits because additional residents can support local businesses and services.

NEW PROVISIONS IN THE CITY OF TORONTO

Provisions permitting second suites throughout the City of Toronto came into effect in summer 2000. The legislation allows homeowners within the 416/647 area code, to have a second dwelling unit in any single or semi-detached home (and, in some cases, within rowhouses).

Although second suites often take the form of basement apartments, they may occupy an upper floor, or the back part of a house.

For a second suite to qualify as authorized unit, it must meet:

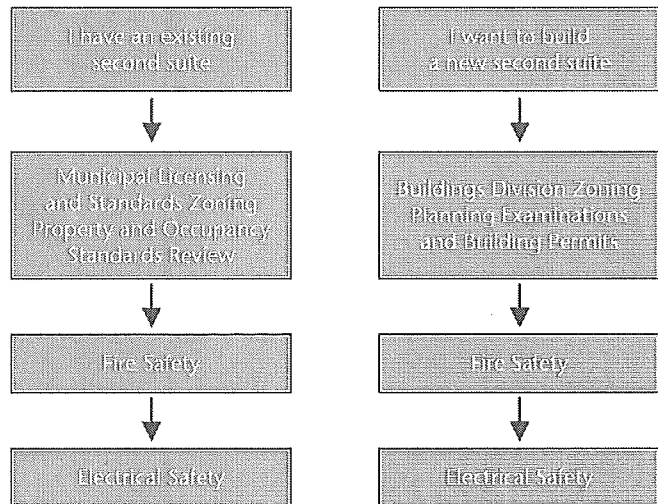
- residential zoning requirements;
- property standards;
- occupancy standards;
- health and safety requirements; and
- fire and electrical codes.

Established standards ensure safety and comfort for both homeowners and tenants.

If you are a homeowner or homebuyer considering a second suite, take the time to learn about your obligations in owning a home containing a second suite. The time you spend planning ahead will better equip you to handle any situation that arises.

STEP-BY-STEP GUIDE

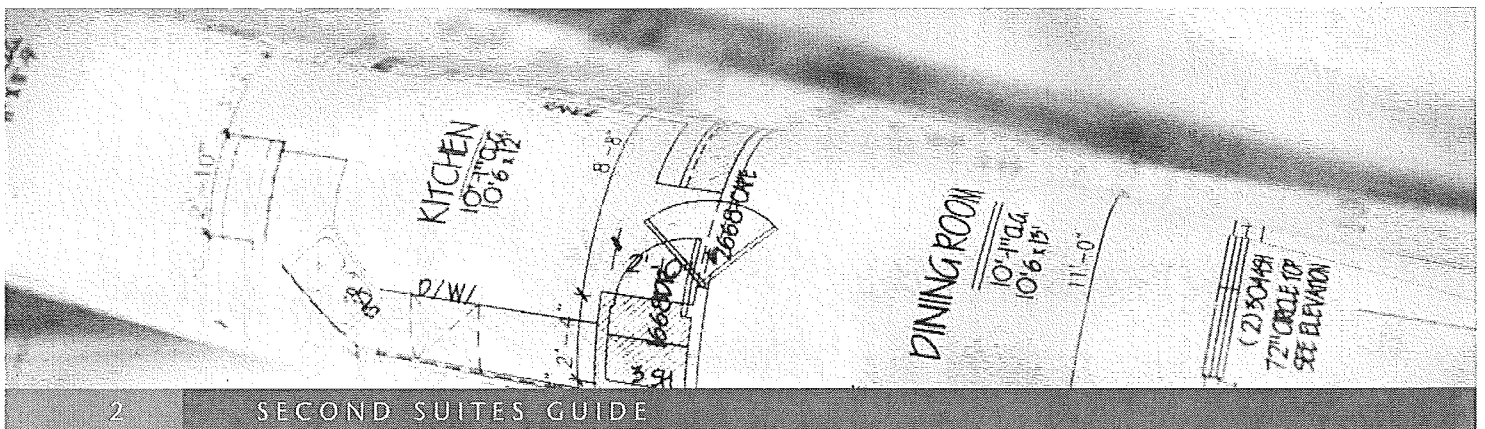
Whether you are looking to buy a home with an apartment, wanting to upgrade an existing rental unit, or considering building a new unit, you need to make sure you are doing it safely and responsibly. For each case there is a slightly different way of going about it. The path to follow depends on the work done to the property containing the second suite.

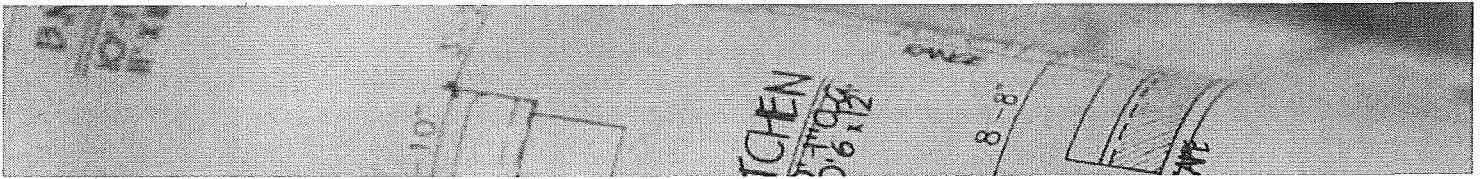


If there is no evidence that the home has ever had a separate dwelling, then you would be creating a new second suite. The area for a second suite may be unfinished and no permits have been issued to accommodate a second suite, or to allow an additional kitchen or bathroom in the house. Please see *Creating a New Unit* on page 3.

If your house already contains a rental unit or if it appears to have separate living quarters that have previously been used, it would be considered as an existing second suite. Please see *Upgrading an Existing Second Suite* on page 3.

However, if your property records do not indicate that your home has already been adjusted to create a two-unit residential dwelling, you may have to prove that the second suite existed previously by providing city officials with proper documentation.





CREATING A NEW SUITE

There are five basic requirements that must be met before an authorized second suite can be created. Before constructing a new second suite, you should assess if your property meets the following five requirements.

1. The principal residence must be at least five years old.
2. The house must be detached or semi-detached.
Provisions for rowhouses containing second suites have been made to acknowledge previously existing provincial legislation.
3. The exterior façade of the house cannot be significantly altered. *For example, adding a second and separate front door may not be permitted.*
4. The second suite must occupy a smaller area than the rest of the house and it must be a single, self-contained dwelling. *It must have a separate entrance and contain proper kitchen and bathroom facilities.*
5. The property must meet parking requirements. *Except in parts of the former City of Toronto, where provisions have been made to acknowledge limited availability of parking, there must be space for at least two vehicles.*

If your property does not quite meet the basic requirements, but there is only a very small discrepancy between the property and the requirements, you can apply to the Committee of Adjustment for a minor variance. However, the minor variance process can take time and may lead to some additional costs. See page 7 for more information on the Committee of Adjustment.

Building Permits and Inspections

You must apply for a building permit to create a new second suite. All new second suites must comply with the Ontario Building Code, residential zoning by-laws and property standards. Any new construction will require a permit and inspections.

Similarly, you will have to obtain permits for all plumbing and electrical work. There is a charge associated with each permit. Fees for each application vary depending on the type of work being done and the amount of work or square footage involved.

Building inspectors review projects during key stages of construction to ensure the work complies with the Building Code and approved plans. Inspectors may visit several times, depending on the project, and they must be able to see the work under inspection. Inspectors require a minimum of 48 hours' notice to book an inspection. They have extensive hands-on experience, so you should try to be around during their visits.

Note: The Building Division will not inspect a house that you do not yet own. If you want an inspector to look at a property you are planning to buy, check the Yellow pages under Building Inspection Service.

BUILDING DIVISION SERVICES FOR HOMEOWNERS

Preliminary Project Review

This new service, offered by the city, provides homeowners with detailed written zoning comments on a proposal for the

construction of a second suite. A small housing addition will usually require the submission of the following drawings:

A **SITE PLAN** is a drawing showing the property and identifying all the structures on the property in relation to the property boundaries. It should include an arrow indicating where north is, the lot lines and their dimensions, the distance between the structures and the lot lines, and any proposed changes to the existing grade.

A **FLOOR PLAN** is a drawing of a house as it would look if it were cut horizontally a few feet above the floor. One floor plan is required for every storey or level of the house affected by the new construction. Each plan shows the interior layout of the particular level and provides information on the size, type and location of exterior and interior walls as well as partitions.

ELEVATIONS show the exterior view of each side of the house. Each elevation is identified according to the direction it faces (north, east, etc.) and indicates the extent of new and existing construction along with items such as roof overhangs, roof shape and eavestroughs.

SECTION DETAILS provide a view of a house as it would look if it were cut through vertically at a particular location and illustrate construction details such as footings, foundations, walls, floors and roof.

All drawings must be accurately drawn to scale in ink, and must show existing and proposed constructions, along with elevations and dimensions.

Fast Track Service

This service offers over-the-counter, while-you-wait residential building permits for small building projects and minor alterations. It is available at all civic centres on specific mornings between 9 a.m. and 11 a.m. For more information on this service, contact the municipal office for the area in which your property is located. (See the back pages of this guide.)

Electrical Safety

Building permits do not cover electrical safety codes. You must contact the Electrical Safety Authority and arrange for an inspection of any change to electrical services or wiring that occur during construction of a second suite.

Doing It Right!

If you are constructing a new suite, consider hiring a general contractor. However, if you are already experienced in small construction or renovation jobs, you can save money doing part of the work yourself and acting as your own general contractor. This job includes coordinating the work of several tradespeople and arranging for inspectors to come in and see the work at the right times.

City officials can help you determine the feasibility of creating an authorized second suite. Take advantage of the professional expertise of Building Division staff before you submit an application for a building permit. Building inspectors and plan examiners can offer suggestions to help solve construction problems, often before they occur.

UPGRADING AN EXISTING SECOND SUITE

There are risks associated with operating a home containing separate living quarters. These risks are reduced when a home is properly equipped for a second suite, but you need to make the required changes before the suite is occupied.

Having an authorized second suite ensures that your home meets basic health and safety principles that protect you and your tenant. If an existing second suite does not fit the regulations, it would be considered an unauthorized unit. The onus is on you to ensure that your second suite meets established standards. If a fire or flood occurred, you could be held responsible.

The best way to establish a positive working relationship with city services would be to request an inspection yourself. Remember, someone else can also request an inspection of your second suite. For example, your tenant or a neighbour might ask a city official about the safety or maintenance of your second suite; the city would then respond to this complaint. Sometimes, properties containing a second suite are found during a routine neighbourhood inspection by a city official, and the city must follow up on this discovery.

When upgrading an existing unit, you should first approach Municipal Licensing and Standards, a division of the Urban Development Services Department of the City of Toronto.

Your tenant or a neighbour can contact the city about safety or maintenance concerns relating to a second suite, leading to an inspection by city staff.

Getting an Inspection

You should arrange for an inspection of your second suite. An inspection of a second suite is a two-step process. First, Municipal Licensing and Standards will check that zoning regulations permit a second suite on your property. Then, an official from Municipal Licensing and Standards will come to your home to inspect the property. This usually happens within a couple of weeks of your request, depending on the availability of inspectors.

The inspector will ensure that your second suite is fit for habitation, using the regulations contained in the City of Toronto Municipal Code, Chapter 629, relating to occupancy and property standards. There is no charge for this inspection.

Once a second suite is approved for zoning, you will be referred to City of Toronto Fire Services for an inspection for life safety systems compliance at no cost.

Municipal Licensing and Standards can help you with general inquiries about fire, building and electrical codes, and refer you to the right sources for more information.

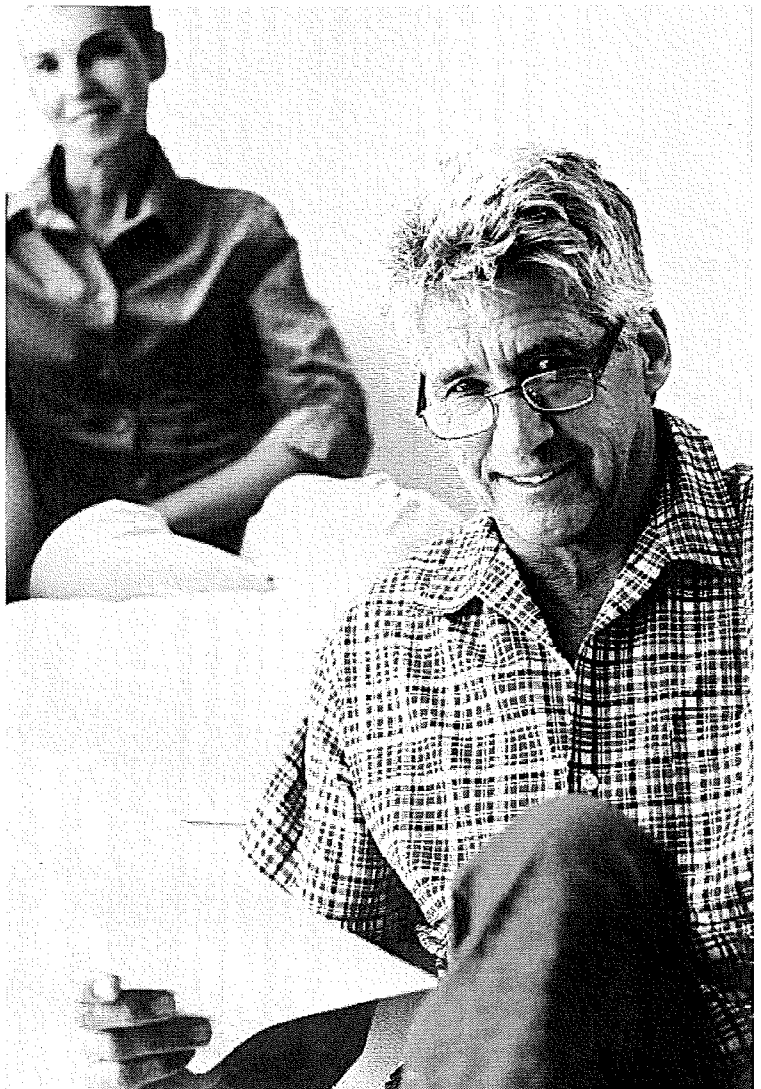
HOW TO PREPARE FOR AN INSPECTION

Every inspection will review of the following:

- Is the property permitted to have a suite within the existing residential zone?
- Does the dwelling fit within basic conditions?
- Does the property have all the right building permits?
- Does the suite meet the City's property standards?

If a Municipal Licensing and Standards inspector finds that the second suite does not comply with one or more requirements, he or she will issue a charge or a notice of violation. This is not intended to penalize you for trying to upgrade your second suite; it is intended to ensure that your suite meets the standards for getting authorization.

If the inspector does approve your second suite, you should proceed to arrange for a Fire Services inspection.



RESOLVING COMPLIANCE ISSUES

A charge or notice of violation may vary, depending on the nature of the infraction. A specified date may be attached to this compliance order. Compliance may be obtained in several ways:

- renovating the property so it fits within established standards;
- addressing zoning variances through the Committee of Adjustment;
- closing the second suite.

Notice of Violation

In order to operate an authorized second suite, you must comply with any recommendations made by Municipal Licensing and Standards, and do so at your own cost. The possibility of achieving compliance depends on the nature of the violation and the time and cost to correct it. Most minor deficiencies are correctable. If Municipal Licensing and Standards finds that your second suite does not comply with the zoning by-law, you may apply for a variance through the Committee of Adjustment.

The Committee of Adjustment

Toronto's Committee of Adjustment consists of citizen members who regularly hold public hearings to consider applications for minor variances, permissions, and consents. The Committee is required to ensure that the intent and purpose of both the Zoning By-law and the Official Plan are maintained, and that the proposal is appropriate for the development and use of the subject land or building.

When you apply to the committee, all registered owners of land located within 60 metres your property will be notified of your application. The committee will set a time and date for a public hearing. All interested persons are invited to attend the public hearing to express their views and concerns. If you disagree with the Committee's decision, you will have 20 days to appeal the decision to the city.

Non-permitting use charge

If the inspector finds a condition that poses a significant risk to the safety of your tenants or your household, you may be required to shut down the apartment immediately and remove the elements that make it a separate unit within your house. You may be asked to take out any doors, locks or walls that separate the rental unit from the rest of your home, along with kitchen equipment such as a refrigerator or stove. It is up to the inspector to decide whether or not to issue a request to remove tenants and components of the apartment.

If a second suite unit has existing tenants, and you are required to shut down the suite, you may find yourself in a difficult position. Under the *Tenant Protection Act* there are specific reasons for which a landlord may remove an occupant and a specific process to follow. Be sure to check the requirements and to follow the proper procedures of the Act if you need to remove tenants from the second suite.

HOW TO HIRE A CONTRACTOR

Whether you are creating a new second suite, or carrying out renovations to upgrade a second suite, it is your responsibility to ensure all work is done according to legal requirements. You are also responsible for calling the city for an inspection at certain stages of construction. Hiring a contractor with relevant experience and the proper insurance is a good way to meet these responsibilities.

A general contractor is responsible for:

- the quality and completion of all work set out in your contract;
- paying public liability and property damage insurance to cover workers; and
- removing debris and cleaning up the site after construction.

To complete specialized jobs such as wiring, plumbing, carpentry, dry walling or general labour, a general contractor will often hire a subcontractor.

Finding a contractor

You can get information on contractors from one of several sources:

- recommendations from people who have had similar work done;
- the Greater Toronto Home Builders' Association;
- hardware and building supply outlets that do their own contract work and offer the same guarantee they do on their retail goods; and
- the Yellow Pages: look under General Contracting or the specific building trades needed.

Seek out a licensed practitioner with experience and formal training in the area of work that you require. Look for one who is affiliated with a credible association or agency and has good references. You should also check for public liability insurance coverage on the company or contractor.

You should ask at least three contractors to bid on any work required. Approach the contractors when plans have been drawn up, so they will all be basing their estimates on the same information, and both you and they are clear about what is needed.

Do not select a contractor who:

- gives you an estimate without seeing the job site;
- asks for a large down payment for materials; and/or
- refuses to provide a written contract stating exactly the work to be done.

Wait until you received all the estimates before you make your decisions. All estimates should have a detailed breakdown of labour and material costs. The lowest estimate is not necessarily the best. Make sure the contractor has considered all the work you want done and is bidding on the same work as the others. Always ask for a receipt for payments and do not pay for work that has not been completed, except special orders for materials.

Holdbacks

Do not make your final payment or sign a certificate of completion until all work is completed to your satisfaction. Hold back 10% of each interim payment to ensure that a lien cannot be placed on your property by suppliers or workers whom the contractor did not pay. You can check at the Land Registry Office to ensure that no lien has already been registered. Holdbacks should be released after 45 days, when the time limit for creditors to register a lien has expired.

The Toronto Licensing Tribunal will provide information about any previous complaints on a contractor, and can later offer mediation services for any disputes that may come up.

The Contract

The only way to make sure your contractor will do the work as expected is to have a contract that includes:

- names and addresses of both parties;
- a description of the work to be done;
- materials to be used and workers to be hired;
- identification of responsibilities such as obtaining necessary permits and other paperwork, or removal of debris;
- a statement of warranties, along with details of property damage insurance and public liability; and
- start and completion dates with prices and payment schedules.

You can write up a contract yourself if both you and the contractor agree to its terms and sign it. The same applies if you or your contractor need to make any changes as unexpected situations arise.

If you have problems with a contractor

You can lodge a complaint against a contractor or subcontractors with Municipal Licensing and Standards at the City of Toronto. A representative will meet with you to investigate the complaint.

If the representative determines that the complaint has serious implications for the contractor's licence, he or she will file a report with the Toronto Licensing Tribunal. The tribunal will hold a meeting to hear your complaint and make a judgment as to whether the contractor's license should be retained, revoked or have conditions placed on it.

WHAT IS A PERMIT?

A permit is written approval that grants you formal permission to make significant structural changes to your house and helps ensure that any structural change is safe, legal and sound. It should be obtained before you begin any construction or demolition.

The building permit process ensures that building standards are met and protects your interests, as well as those of the community at large. Your contractor may get permits on your behalf, but it is ultimately your responsibility to comply with all requirements.

You can apply for any type of permit at any City of Toronto Building Division, Monday to Friday, 8:30 a.m. to 4:40 p.m. Contact the building department in the area in which your property is located. Contact numbers for each district can be found in the back of this guide.

What happens if you do not get a permit?

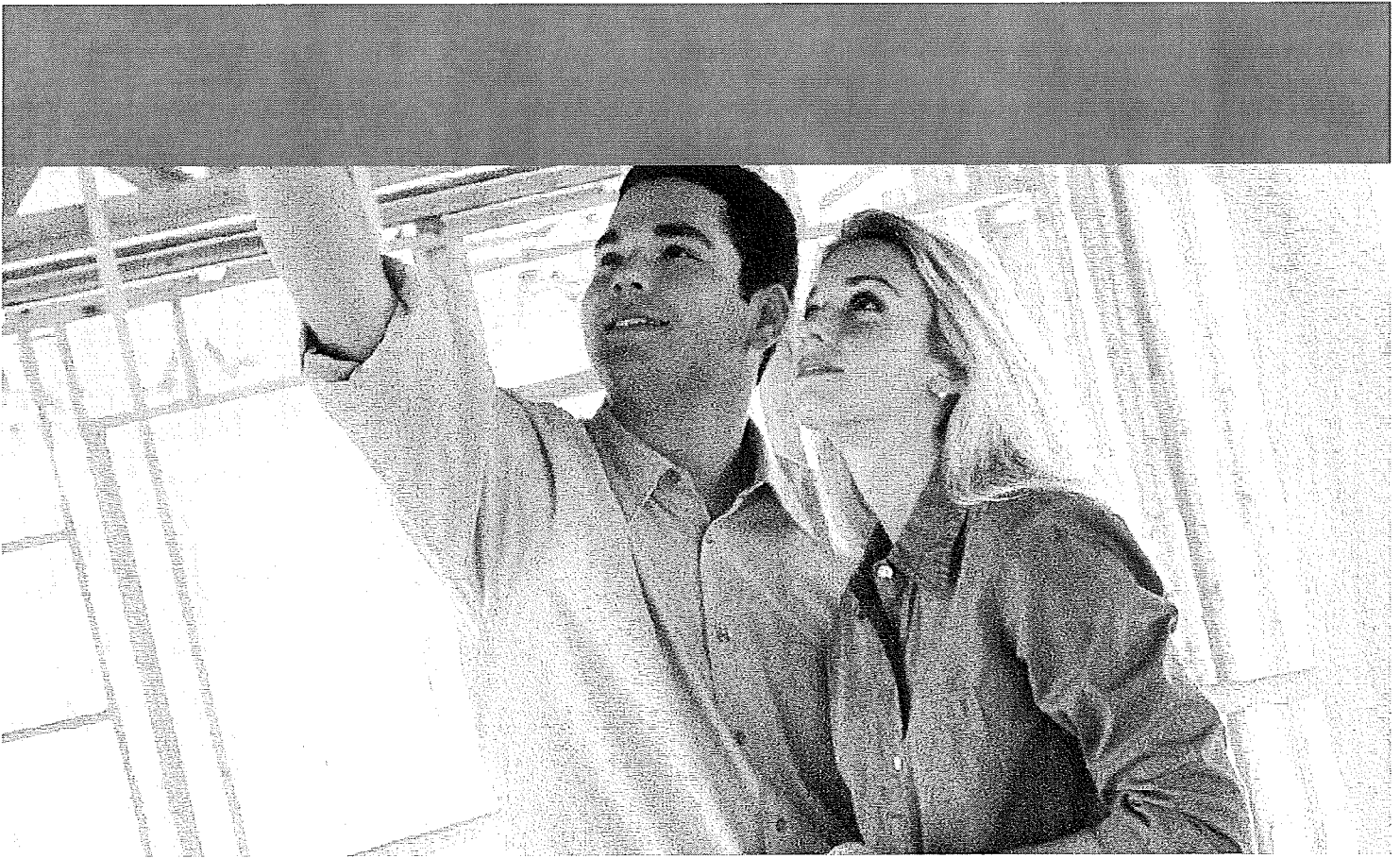
If you start construction but do not have the necessary permits, you may be ordered to stop work, prosecuted, and even ordered to remove work already done. If you are uncertain as to whether you need a permit for your project, contact your local civic centre directly.

YOU NEED A PERMIT TO

- renovate, repair or add to a building;
- demolish or remove all or a portion of a building;
- change a building's use;
- install, change or remove partitions and load-bearing walls;
- make new openings for, or change the size of, doors and windows;
- build a garage, balcony or deck;
- excavate a basement or construct a foundation;
- install or modify heating, plumbing, air conditioning systems or fireplaces.

YOU DO NOT NEED A PERMIT TO

- replace existing, same-size doors and windows, subject to distance from property lines;
- install siding on small residential buildings, subject to distance from property lines;
- build a roofless deck under 2 feet (0.61 metres) that is not attached to a building;
- build a utility shed under 100 ft² (9.29 m²);
- reshingle a roof, provided there is no structural work;
- install eavestroughs, provided that drainage is contained on your property;
- replace or increase insulation, drywall or plaster;
- damp-proof basements;
- paint or decorate;
- install kitchen or bathroom cupboards without plumbing; erect a fence (except for swimming pools; outside pools require permits).



MEETING FIRE SAFETY STANDARDS

New Suites

Whether or not any construction takes place, the conversion of a home to a two-unit residential occupancy will require a building permit. Plan examiners will review life safety systems when you submit an application to the Building Division for the creation of a new suite. Thus, in creating a new suite in your house, you will have to consult with the Building Division; this will also ensure fire code compliance.

Existing Suites

Fire safety requirements for an existing suite are found in the *Ontario Fire Code*, Section 9.8, "Two Unit Residential Occupancies" (Regulation 385/94). Any existing second suite requires a General Inspection for Fire Code Compliance of Two Unit Residential Dwelling carried out by the local municipal fire service. You should carry out your own initial assessment before calling for an inspection. Check the Fire Code to determine if anything needs to be upgraded in your home to meet code requirements.

Preparing for a fire inspection

Before you embark on any change or construction, contact the Plans Examination Section of your local Fire Services office. This simple step can save you time and money. You will be asked to prepare floor drawings of your property and to arrange for a preliminary planning review. You need to provide three sets of drawings for each floor of the property containing the second

suite. This should basically be a general site plan that shows location of all walls, doors, transoms, windows (interior and exterior), stairways, fire escapes and balconies.

The plan examiner will review the drawings and give you feedback on specific details and any required changes to make sure your home meets established codes.

Ultimately the onus is on you to ensure that your home complies with provisions set out in the Ontario Fire Code. In all cases, minimum fire safety requirements must be met. The penalty for fire code violations is a fine of up to \$25,000 or a prison term of up to one year, or both.

Where can I get information?

In addition to the simplified chart in this guide (see next page) you can get information on fire regulations from several sources:

- Fire code regulations with visual examples are detailed on video entitled *Fire Safety for Apartments in Houses*, available at Toronto public libraries.
- The entire code can be downloaded from the Web in the related links page of the Second Suites information hub found within www.landlordselfhelp.com.
- Fire regulations with commentary can be purchased directly at *Publications Ontario*, 1-800-668-9938.

The quality of living conditions and the protection of every resident living in a house with a second suite is very important. All second suites must comply with the basic life safety systems defined in the Ontario Fire Code. Take the time to review the following requirements:

FIRE SAFETY PRINCIPLE	DEFINITION	FIRE CODE REQUIREMENTS AND EXAMPLES*
Containment	Creating a “box” around your rental unit by having horizontal and vertical fire separations will confine and restrict a fire. Ensuring that all walls, ceiling and flooring fit within regulation helps limit the spread of smoke and controls the size of a fire within a second suite.	<p>Any wall or floor assembly required as a fire separation shall be constructed as a continuous barrier against the spread of fire. Each dwelling unit shall be separated from other rooms and areas by a fire separation with assured fire resistance rating. For example:</p> <ul style="list-style-type: none"> • Any walls between a common corridor and dwelling units should have a 30-minute fire resistance rating. • Doors that are part of a fire separation shall have a 20-minute fire-protection rating and be equipped with a self-closing device. • Existing wall and floor assemblies consisting of membranes of lath and plaster or gypsum board are acceptable. • 20-minute fire-resistant doors, including any existing 1_-inch solid wood core, hollow metal or kalamein doors, are acceptable. <p>Examples of items less than 15-minute fire-resistance rating include wood panelling, non-rated ceiling tiles, and open wood joists.</p>
Detection and early warning	Having an alarm system in a home will enable occupants to know that there is danger. Providing early warning signs of a fire enables homeowners and tenants enough time to evacuate safely.	<p>Smoke alarms shall be installed and in working order in each dwelling unit.</p> <ul style="list-style-type: none"> • “Listed” interconnected smoke alarms shall be installed on or near the ceiling on each floor within a dwelling unit including every basement. • “Listed” hard-wired or battery-operated smoke alarms shall be installed near bedrooms (“hard-wired” refers to permanent wiring from the device to the hydro panel).
Means of egress	Providing an acceptable and adequate way to get outside the home is a key safety feature if a fire occurs. Ensuring that access to these exits is clear and unobstructed allows occupants a safe environment for evacuation.	<p>Each dwelling unit shall be served by at least one means of escape consisting of a door that serves only that dwelling unit, opens directly to the exterior from that dwelling unit, and has direct access to the ground level.</p> <ul style="list-style-type: none"> • A continuous path of travel must be provided for the escape of persons from any point in a building to an exit. • Windows may serve as a second means to escape, but they have specific requirements. • Fire escapes may be used. • The exit must lead to a safe location outside the building. • Protection of exits consist of a fire-separated shared interior wall or stairway.
Suppression	Using specialized equipment to slow down or stop a fire can protect the lives and property of a homeowner and tenant. The ability to control and extinguish fires throughout the home will also ensure better access to the building for the fire department	<p>A fire extinguisher should be provided in each dwelling unit. Routes to facilitate access for fire fighting operations shall not be obstructed by vehicles, gates, fences, building materials, vegetation, signs or any other obstruction.</p> <ul style="list-style-type: none"> • Provide a minimum of a 2A portable fire extinguisher. • Provide unobstructed walkways from the street to the principal entrance of the building • Ensure fire hydrants near your residence are accessible to fire fighters at all times.

*Refers to the Ontario Fire Code, Section 9.8 for all requirements of two-unit residential occupancies.

RETROFITS AND INSPECTIONS

To ensure the safety of your home, you should retrofit an existing suite to meet current fire safety codes. A step-by-step procedure has been established to assist in the approval process.

Obtain zoning approval

Although municipal by-laws allow second suites throughout the city, certain zoning considerations must be met. In order to get a fire inspection, your property must be approved by Municipal Licensing and Standards in terms of zoning.

Get clearance from the Electrical Safety Authority

Electrical safety is a key component of fire prevention. Ensuring that your home contains a safe service and wiring system will increase the safety of the property. You must arrange for your home to be inspected by the Electrical Safety Authority and correct any identified deficiencies that result from this inspection before you get approval for a fire safety inspection.

Work to meet code requirements

Once you have consulted Municipal Licensing and Standards or the Buildings Division, you will have a clearer idea of what needs to be done. Follow all recommendations to meet established standards in a proper manner before calling for an inspection.

Arrange for a fire safety inspection

Once both dwelling units have been inspected and found to comply with fire code, you may request a "Letter of Inspection" as a record of the inspection.

Keep in Mind

Carbon monoxide detectors must be installed on the same floor as any fuel-fired appliance and two floors above it.

It is your responsibility to maintain all of detection devices in good working order.

Carbon monoxide detectors and smoke alarms must be audible from the bedroom of the second suite, even with the door closed.

ELECTRICAL SAFETY

Checking to see that the electrical service for your home is safe and useable is always a good practice. If you are operating a second suite, this is especially important. Not only will this help you obtain insurance, but it can also benefit you if and when you resell your property. Most importantly, though, it will reduce hazards for you and your tenant.

Any home containing a second suite will need a General Inspection for Compliance of Two-Unit Residential Dwelling to be considered an authorized unit. This will guarantee the electrical service is safe and useable for the number of people living in the house and for the appliances in the home.

Requirements for electrical installations and electrical equipment can be found in various sections of the *Ontario Electrical Safety Code* (Ontario Regulation 10/02). A licensed practitioner should carry out any electrical work, followed by an inspection by a representative of the Electrical Safety Authority.

OBTAINING A CERTIFICATE OF INSPECTION

Apply for an inspection

Requests for an electrical inspection should be filed before or within 48 hours after the start of any electrical work on your house. If possible, the application should be made by the company or individual planning to carry out the work. All requests for electrical inspection are documented, tracked, and forwarded to an electrical inspector to respond. There are fees associated with this kind of inspection.

Respond to notification

Unless the Electrical Safety Authority is responding to a hazardous or emergency situation, notice of the request for inspection will be provided in writing, and arrangements will be made to schedule an inspection. Both the homeowner unit and the second suite will be inspected.

Correct any defects

After the inspection, the ESA will identify any hazardous defects. This information will be given to you with a time provision for correcting the defects, based on the hazard associated with each specific defect. Before you make the necessary changes, you must apply for a permit for any electrical wiring work. Fees for permits vary with the type and quantity of electrical installations being done.

Obtain a Certificate of Inspection

Once all defects have been corrected and electrical installations have been inspected and comply with the requirements defined in the *Ontario Electrical Safety Code*, you may request a "Certificate of Inspection" as a record of compliance.

WHAT IS THE ELECTRICAL SAFETY AUTHORITY (ESA) LOOKING FOR?

The ESA will conduct a visual inspection to see if the existing wiring and electrical service are safe. In addition to ensuring that electrical installations meet the requirements of the Ontario Electrical Safety Code, the inspector will check to see whether these installations are in good shape. This review includes:

ensuring electrical plugs are grounded, and not reversed in polarity, as well as ensuring proper use of extension cords;

ensuring exterior and bathroom plugs meet Ground Fault Circuit Interruption (GFCI) requirements for all installations of exterior plugs as of 1977 and all bathroom plugs installations as of 1983;

checking all electrical receptacles and devices, ensuring that receptacles have proper covers and fit within the established standards (that is, that the size and the spacing apart is sufficient and that they lead to a proper amp service – less than nine receptacles per circuit will likely be approved if all else is adequate; more than 12 receptacles will be refused);

reviewing the way in which electrical conductors are used and ensuring there is no deterioration or exposed wiring; misuse can often be detected if there are loose or hot wires and any insulation that is deteriorated will be dry or brittle;

ensuring main service is in good working order and that existing breaker devices are properly connected; this involves checking for discoloration or indications of moisture or overheating to any wiring, seeing if the right fuse amp is in the socket (generally 15 amps/socket), and checking for evidence of peripheral damage from a blow out; and

checking that electrical equipment used in the home is approved for use in Ontario.

RUNNING A SECOND SUITE BUSINESS

Having a second suite in your home is the same as operating a small business. There are advantages and disadvantages, and naturally, you want to maximize your gain.

What about my income tax?

Keeping good records is important. Under the *Income Tax Act* and its regulations, you must declare all of the rent you collect as "income." Any reasonable expenses made in operating a second suite may be deducted from your rental income, under certain conditions. If the second suite occupies one-third of the property and your household occupies two-thirds of the house, then you can deduct one-third of certain expenses that apply to the entire house from your rental income. Expenses that apply only to the second suite are 100% deductible from rental income.

You must back up all purchases and operating expenses with invoices, receipts, contracts or other documents. You can also write off certain types of payments as capital cost allowances over several years. Any questions about the effect of rental income on your income tax can be directed to Canada Customs and Revenue Agency. They also publish a pamphlet, *Rental Income Tax Guide*, which is available free of charge.

Expenses a homeowner can deduct

100% DEDUCTIBLE:

- vacancy advertising costs;
- accounting costs;
- legal expenses (preparing leases or solving landlord-tenant matters);
- interest on last month's rent (paid to tenants when you return their deposit).

PARTIAL DEDUCTION (% based on area of suite in relation to home) mortgage interest;

- property taxes on whole house expenses;
- heat, light and water (unless the tenant pays separately);
- insurance premiums;
- some maintenance and repair items;
- some landscaping costs;
- legal fees of a sale (if purchased with the intent to rent).

Will my property taxes increase?

Overall, the property tax impact of second suites will be small. Usually, a property's current value assessment (CVA) does not increase unless there is a 5% increase in the total property value, or at least \$10,000. Depending on the location, a second suite generally increases the value of a home by only 2% to 5%, usually not enough to result in a CVA increase.

The major exception would be a second suite that is created by building an addition. This could significantly affect the total value of the property and result in a property being reassessed. If you want to get some idea of the possible change to your property tax, call the Property Tax Inquiry Line (see page 17).

Insurance Considerations

Notify your insurance company or broker as early as possible about your plan to add a second suite to your house. You should adjust your policy, before *and* after construction, to reflect the changes in liability exposure and value of the house. Your current insurance company will probably be willing to continue coverage once you rent the suite. If not, you can always arrange coverage with another company.

Expect an average increase of 15% to 50% on your annual premiums (remember, part of your insurance expenses will be tax-deductible). You can buy additional insurance to protect you against the loss of rental income if fire or an accident prevent you from renting out your suite.

Increasing your personal liability insurance to reflect your new position as a landlord is especially wise. You should also ensure that you properly insure all workers and subcontractors during construction.

For more information, call the Insurance Bureau of Canada (see page 17).

Are you ready to be a landlord?

Besides the investment needed to create a second suite, you should understand all the legal obligations involved in becoming a landlord. You have the right to collect rent on time, not have your property damaged and not be harassed or disturbed by your tenant. You also have legal responsibilities. Most important, you are responsible for providing a safe home to your tenants.

The relationship with a tenant is governed by *Ontario's Tenant Protection Act*. The following three provisions from the Act are especially relevant for second suites:

- security of tenure: a tenant has the right to occupy the suite until valid grounds for eviction are proven and proper notice has been given, even during a dispute;
- housing standards: a tenant has the right to live in a suite that is habitable, safe and properly maintained;
- reasonable enjoyment: a tenant has the right to have overnight guests, to cook foods they enjoy, and to come and go as they please.

All tenancy agreements are subject to rules and regulations about discrimination under the *Human Rights Code*. As a landlord, you should be aware how this affects the tenant selection process and your interactions with the tenant. Community mediation services can often help resolve problems when you and your tenant disagree. Several services are available to help both a homeowner and a tenant.



SELLING OR PURCHASING HOME WITH A SECOND SUITE

A second suite can increase the resale value of a home, since the income potential of an existing suite will attract purchasers. Compliance with established standards increases the marketability of the property and may enable you to qualify for a larger mortgage loan.

Each transaction involving a second suite will be different, depending on the property. For example, if you buy a house containing a rental unit, you may find lenders or mortgage insurance brokers reluctant to provide funding if the unit does not meet fire safety standards. You may also face very serious consequences if you rent out a non-conforming suite and an accident occurs.

When purchasing a home containing a second suite, be sure to request and carefully review documentation relating to permits and inspections required for an authorized unit. Similarly, if you plan to sell a home with a second suite, consider upgrading the existing unit so that it fits within established standards, as

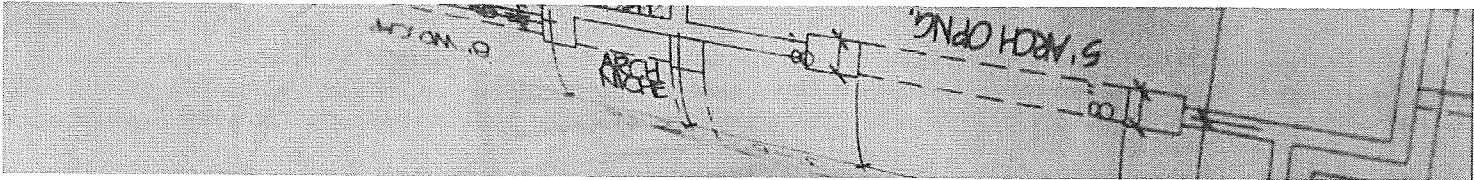
compliance may make your home easier to sell. Be sure to keep all the documentation for interested homebuyers.

Selling a rental property with tenants in possession can be a challenge. You must comply with the provisions of the *Tenant Protection Act* with respect to a tenant's privacy when arranging for appraisers and prospective purchasers to view the house. You also need to be familiar with the process for terminating a tenant's lease.

Special note to Realtors

Real estate agents are licensed by the province under the *Real Estate and Business Brokers Act* and hold an obligation to ensure all sale transactions reflect a homebuyer's awareness of the risks associated with the purchase of a home containing a second suite. The public will rely on the realtor for accurate information. Realtors can reduce their own risk, and that of their clients, by telling clients about the rules for second suites. If this does not occur, the realtor may be held liable. Contact the Toronto Real Estate Board for more information (see page 18).





WHERE TO GET MORE INFORMATION

This following list provides contact information for the organizations and departments described in this guide.

Landlord's Self-Help Centre416-504-5190
www.landlordselfhelp.com

Buildings Division
www.toronto.ca/building

East York Civic Centre
 850 Coxwell Ave.416-397-4488

Etobicoke Civic Centre
 399 The West Mall416-394-8002

North York Civic Centre
 5100 Yonge St.416-395-7000

Scarborough Civic Centre
 150 Borough Dr.416-396-7526

Toronto City Hall
 100 Queen St. W.416-392-7539

York Civic Centre
 2700 Eglinton Ave. W.416-394-2490

Municipal Licensing and Standards
www.toronto.ca/licensing

West District (Etobicoke and York)416-394-2535

East District (Scarborough and East York)416-396-7071

North District (North York)416-395-7011

South District (Toronto)416-392-6940

Business and trades licensing416-392-3051

To lodge a complaint about a contractor416-392-3113

Toronto Fire Services
www.toronto.ca/fire/prevention

Etobicoke and York416-338-9450

North York416-338-9150

Scarborough and East York416-338-9250

Toronto416-338-9350

Access Toronto416-338-0338
www.toronto.ca/accesstoronto

Access Toronto is a general inquiry line and can assist homeowners with information on second suites specific to the City of Toronto.

Electrical Safety Authority905-507-4949
www.esinspection.net

Tax Information

Income Tax Information.....800-959-8281

Rental Income Tax Guide800-959-2221

Property Tax Inquiry Line416-338-4829

Land Registry Office416-314-4430

This office can provide a survey of your property which you may need when applying for a building permit, insurance, mortgage or other legal purposes.

Insurance Bureau of Canada416-362-2031
www.ibc.ca

Canada Mortgage and Housing Corporation
www.cmhc-schl.gc.ca/en/index.cfm

CMHC has an excellent Web site full of valuable information on all the things you need to consider when renovating your home, including hiring a contractor.

Ontario Association of Architects416-449-6898
www.oaa.on.ca

The OAA can help you find an architect to create architectural drawings of your renovation project. You will need drawings done to scale in order to get a building permit. They do not have to be done by an architect. You can do the drawings yourself, as long as they are drawn to scale.

Greater Toronto Home Builders Association (GTHBA)
www.newhomes.org

GTHBA has a wealth of online articles that provide valuable information on hiring a contractor. Visit the GTHBA Web site and search by typing "hiring a contractor." You will find dozens of links to relevant articles.

Renomark416-391-4663
www.renomark.ca

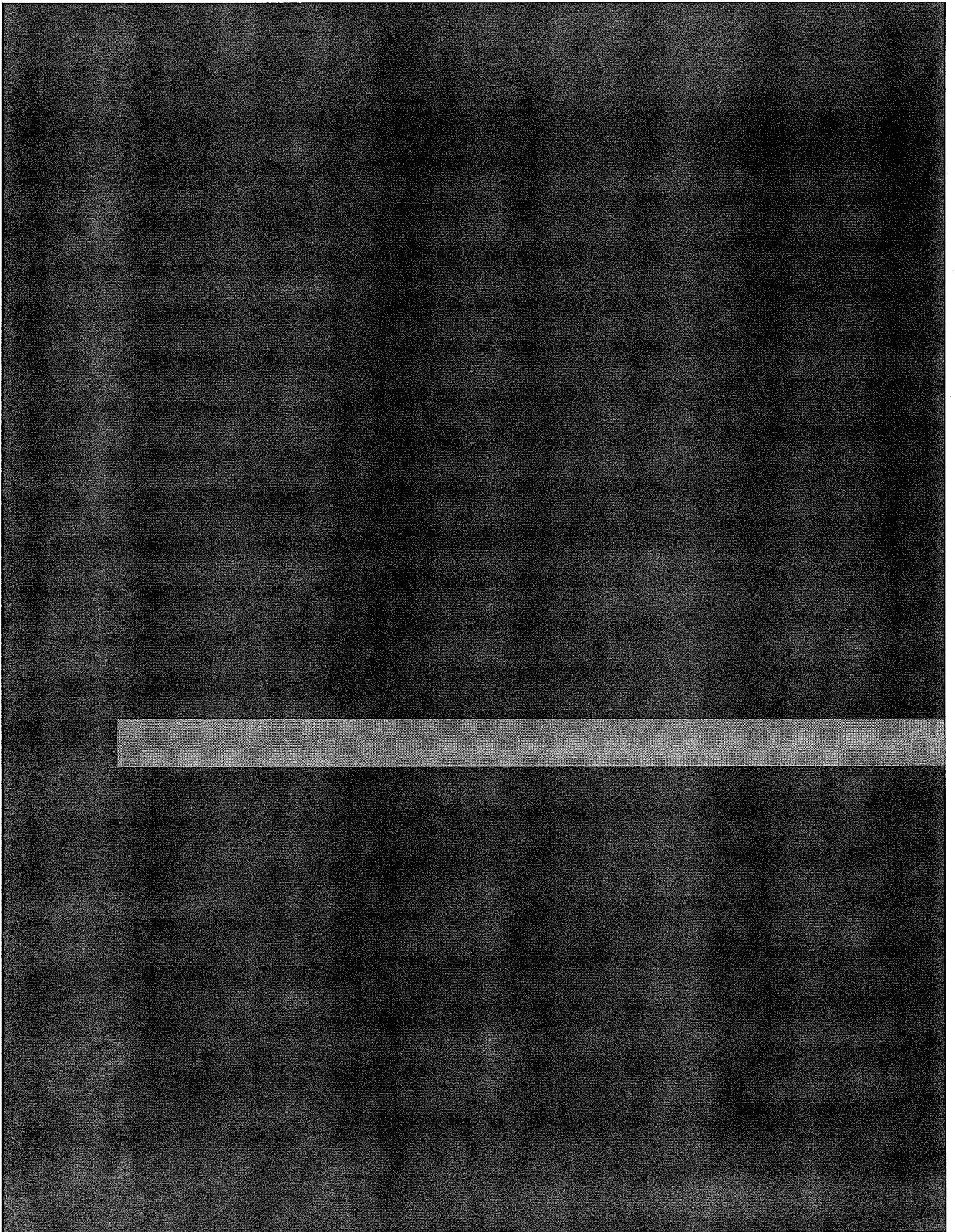
Renomark is a service of the Greater Toronto Home Builders Association. Only renovators who abide by the program's code of ethics may participate. These renovators agree to provide warranties to their customers; to value good customer service; and to keep up with the latest information, trends and regulations in home building.

City of Toronto, Consumer Services Bureau.....416-326-8800

Before hiring a contractor, check to see if any complaints have been lodged against the contractor. You must submit a request under the *Freedom of Information Act*. The Bureau can tell you only if a complaint has been lodged, it cannot provide you with details of specific complaints.

Toronto Real Estate Board416-443-8100
www.torontorealestateboard.com

Add numbers for Committee of Adjustment?



Section 9.5. Design of Areas and Spaces

9.5.1. General

9.5.1.1. Application

(1) Unless otherwise specifically indicated, this Section applies only to *dwelling units* that are intended for use on a continuing or year-round basis as the principal residence of the occupant.

9.5.1.2. Method of Measurement

(1) Unless otherwise indicated in this Part, the areas, dimensions and heights of rooms or spaces shall be measured between finished wall surfaces and between finished floor and ceiling surfaces.

9.5.1.3. Floor Areas

(1) Minimum floor areas specified in this Section do not include closets or built-in bedroom cabinets unless otherwise indicated.

9.5.1.4. Combination Rooms (See Appendix A.)

(1) Two or more areas may be considered as a combination room if the opening between the areas occupies the larger of 3 m² (32 ft²) or 40% or more of the wall measured on the side of the dependent area.

(2) Where the dependent area is a bedroom, direct passage shall be provided between the two areas.

(3) The opening required in Sentence (1) shall not contain doors or windows.

9.5.1.5. Lesser Areas and Dimensions

(1) Areas of rooms and spaces are permitted to be less than required in this Section provided it can be shown that the rooms and spaces are adequate for their intended use, such as by the provision of built-in furniture to compensate for reduced sizes.

9.5.2. Barrier-Free Design

9.5.2.1. General

(1) Except as provided in Sentence (2) and Article 3.8.1.1., every *building* shall be designed in conformance with Section 3.8.

(2) The requirements of Section 3.8. need not be provided for houses including semi-detached houses, duplexes, triplexes, town houses, row houses and *boarding, or rooming houses* with fewer than 8 boarders or roomers.

9.5.2.2. Protection on Floor Areas with a Barrier-Free Path of Travel

(1) Where a *barrier-free* path of travel required in Article 9.5.2.1. is provided to any *storey* above the *first storey*, the requirements in Article 3.3.1.7. shall apply.

9.5.2.3. Stud Wall Reinforcement

- (1) If wood wall studs or sheet steel wall studs enclose the main bathroom in a *dwelling unit*, reinforcement shall be installed to permit the future installation of a grab bar on a wall adjacent to,
- (a) a water closet in the location required by Clause 3.8.3.8.(1)(d), and
 - (b) a shower or bathtub in the location required by Clause 3.8.3.13.(1)(f).
- (See Appendix A.)

9.5.3. Ceiling Heights

9.5.3.1. Ceiling Heights of Rooms or Spaces

- (1) The ceiling heights of rooms or spaces in *residential occupancies* and *live/work units* shall conform to Table 9.5.3.1.
- (2) Areas in rooms or spaces over which ceiling height is not less than the minimum specified in Table 9.5.3.1. shall be contiguous with the entry or entries to those rooms or spaces.

Table 9.5.3.1.
Room Ceiling Heights
Forming Part of Sentences 9.5.3.1.(1) and (2)

Room or Space	Minimum Heights ⁽¹⁾
Living room or space, dining room or space, kitchen or kitchen space	2 300 mm (7 ft 7 in) over at least 75 per cent of the required floor area with a clear height of 2 100 mm (6 ft 11 in) at any point over the required area
Bedroom or bedroom space	2 300 mm (7 ft 7 in) over at least 50 per cent of the required area or 2 100 mm (6 ft 11 in) over all of the required floor area. Any part of the floor having a clear height of less than 1 400 mm (4 ft 7 in) shall not be considered in computing the required floor area.
Basement space	2 100 mm (6 ft 11 in) over at least 75 per cent of the <i>basement</i> area except that under beams and ducts the clearance is permitted to be reduced to 1 950 mm (6 ft 5 in)
Bathroom, water-closet room or laundry area above <i>grade</i>	2 100 mm (6 ft 11 in) in any area where a person would normally be in a standing position
Passage, hall or main entrance vestibule and finished rooms not specifically mentioned above	2 100 mm (6 ft 11 in)
Column 1	2

Notes to Table 9.5.3.1.:

- (1) Area of the space shall be measured at floor level.

9.5.3.2. Mezzanines

- (1) The ceiling height above and below a *mezzanine* floor assembly in all *occupancies* shall be not less than 2 100 mm (6 ft 11 in).

9.5.3.3. Storage Garages

- (1) The clear height in a *storage garage* shall be not less than 2 000 mm (6 ft 7 in).

9.5.4. Living Rooms or Spaces Within Dwelling Units

9.5.4.1. Areas of Living Rooms and Spaces

- (1) Living areas within *dwelling units*, either as separate rooms or in combination with other spaces, shall have an area not less than 13.5 m² (145 ft²).
- (2) Where the area of a living space is combined with a kitchen and dining area, the living area alone in a *dwelling unit* that contains sleeping accommodation for not more than 2 persons shall be not less than 11 m² (118 ft²).

9.5.5. Dining Rooms or Spaces Within Dwelling Units

9.5.5.1. Area of Dining Rooms or Spaces

- (1) A dining space in combination with other space shall have an area of not less than 3.25 m² (35 ft²).
- (2) Dining rooms not combined with other space shall have a minimum area of 7 m² (75 ft²).

9.5.6. Kitchens Within Dwelling Units

9.5.6.1. Kitchen Areas

- (1) Kitchen areas within *dwelling units* either separate from or in combination with other spaces, shall have an area of not less than 4.2 m² (45 ft²) including the area occupied by the base cabinets, except that in *dwelling units* containing sleeping accommodation for not more than 2 persons, the minimum area shall be 3.7 m² (40 ft²).

9.5.7. Bedrooms or Spaces in Dwelling Units and Dormitories

9.5.7.1. Areas of Bedrooms

- (1) Except as provided in Articles 9.5.7.2. and 9.5.7.3., bedrooms in *dwelling units* shall have an area not less than 7 m² (75 ft²) where built-in cabinets are not provided and not less than 6 m² (65 ft²) where built-in cabinets are provided.

9.5.7.2. Areas of Master Bedrooms

- (1) Except as provided in Article 9.5.7.3., at least one bedroom in every *dwelling unit* shall have an area of not less than 9.8 m² (105 ft²) where built-in cabinets are not provided and not less than 8.8 m² (95 ft²) where built-in cabinets are provided.

9.5.7.3. Areas of Combination Bedrooms

- (1) Bedroom spaces in combination with other spaces in *dwelling units* shall have an area not less than 4.2 m² (45 ft²).

9.5.7.4. Areas of Other Sleeping Rooms

- (1) Sleeping rooms other than in *dwelling units* shall have an area not less than 7 m² (75 ft²) per person for single *occupancy* and 4.6 m² (50 ft²) per person for multiple *occupancy*.

9.5.7.5. Recreational Camps

(1) *Recreational camps* shall have an area in the sleeping quarters of at least 3.72 m² (40 ft²) per camper or, if double or triple tier bunk units are used, 2.79 m² (30 ft²) per camper.

9.5.7.6. Camps for Housing Workers

(1) A *camp for housing of workers* shall have a minimum area of 3.72 m² (40 ft²) per employee in every room used for sleeping purposes.

9.5.8. Combined Spaces

9.5.8.1. Combined Living, Dining, Bedroom and Kitchen Spaces

(1) Despite Subsections 9.5.4. to 9.5.7., where living, dining, bedroom and kitchen spaces are combined in a *dwelling unit* that contains sleeping accommodation for not more than 2 persons, the area of the combined spaces shall be not less than 13.5 m² (145 ft²).

9.5.9. Bathrooms and Water-Closet Rooms

9.5.9.1. Space to Accommodate Fixtures

(1) In every *dwelling unit* an enclosed space of sufficient size shall be provided to accommodate a water closet, lavatory and bathtub or shower stall.

9.5.10. Hallways

9.5.10.1. Width of Hallway Within Dwelling Unit

(1) The unobstructed width of a hallway within a *dwelling unit* shall be not less than 860 mm (2 ft 10 in), except that the hallway width is permitted to be 710 mm (2 ft 4 in) where,

- (a) there are only bedrooms and bathrooms at the end of the hallway furthest from the living area, and
- (b) a second *exit* is provided,
 - (i) in the hallway near the end furthest from the living area, or
 - (ii) in each bedroom served by the hallway.

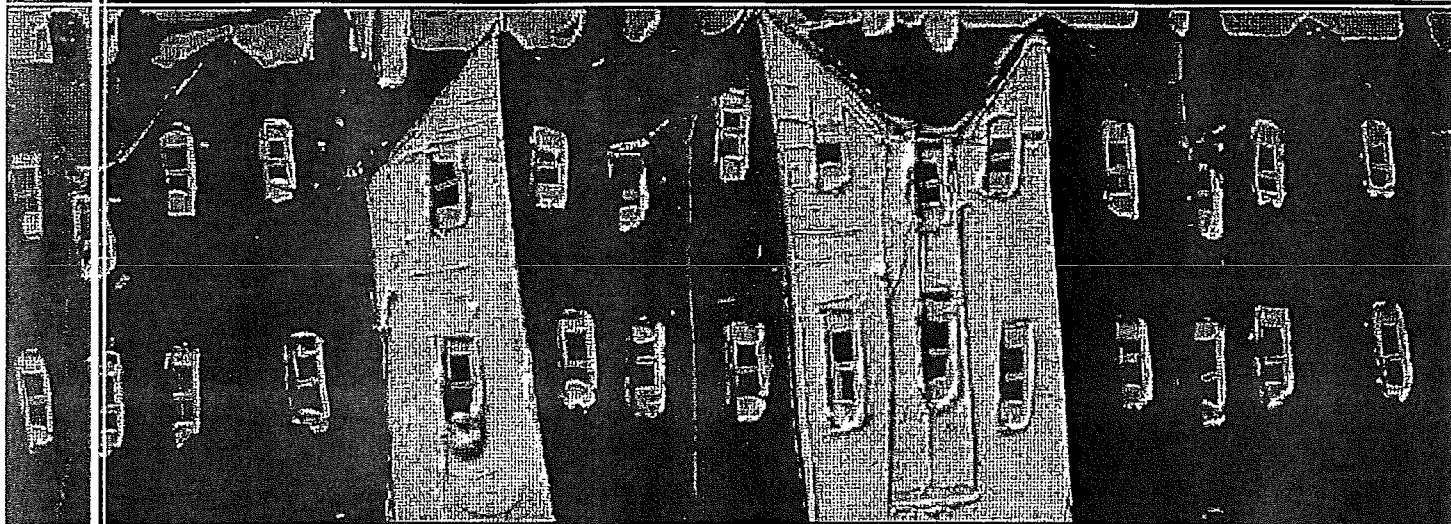
Section 9.6. Doors

9.6.1. General

9.6.1.1. Application

(1) This Section applies to doors, to glazed areas in doors and to sidelights for doors.

Report on the inquiry into
**Rental housing licensing
in the City of Waterloo**



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**Ontario
Human Rights Commission**
**Commission ontarienne des
droits de la personne**

Report on the inquiry into rental housing licensing in the City of Waterloo

1. Summary

The City of Waterloo's rental housing licensing bylaw came into effect on April 1, 2012. Among other things, the bylaw establishes per-person floor area requirements, gross floor area requirements, a licensing fee, and separate regulatory regimes for:

- Non-owner-occupied rentals with up to 4 bedrooms
- Owner-occupied units with up to 4 bedrooms for rent
- Lodging houses (rental units with 5 or more bedrooms)

It also regulates:

- Recognized (grandparented) lodging houses
- Temporary rental units

Related zoning bylaws impose minimum separation distances or zoning restrictions on certain rental units with more than three occupants.

The Ontario Human Rights Commission (OHRC) was concerned that the licensing regime might discriminate against groups protected under the Ontario *Human Rights Code* (the *Code*) and cause them to lose their current housing, or to have a harder time finding housing in future. As a result, the OHRC initiated an inquiry to learn more.

During the inquiry, Waterloo residents reported concerns that – among other things – per-person floor area requirements for bedrooms, minimum separation distances, gross floor area requirements and costs associated with licensing may reduce availability of housing for students, large families, and other people protected by the *Code*.

The OHRC investigated these issues throughout the inquiry, and raised its concerns with the City.

The City has taken a number of positive steps, some of which are highlighted in the OHRC's *Room for everyone: Human rights and rental housing licensing* guide. For example:

- The City referred to the Ontario *Human Rights Code* in the bylaw.
- The City applied the bylaw to the entire city.
- The City said it will provide landlords with information about their responsibilities under the Ontario *Human Rights Code* when they apply for licences for their properties.

- The City bylaw states that the Director of By-law Enforcement shall, before revoking or suspending a licence, consider the impact on tenants.
- The City has committed to a five-year review of licensing bylaws and housing plans, to make sure that rental housing keeps pace with community demand and affordable housing needs and goals.
- The City has committed to monitor the impact of the bylaw and – in addition to a formal five-year review – also says that City staff most directly involved with overseeing the rental housing licensing program meet every week. The City also said that if they find the bylaw is having an adverse impact on the rental housing market in Waterloo (including an adverse impact on *Code*-protected groups), the City will be in a position to react quickly and effectively.
- The City agreed that it would continue to educate the public about the bylaw.

The OHRC commends the City for these promising practices, and includes recommendations later in this report.

However, the OHRC remains concerned about the potential impact of the rental housing licensing regime on *Code*-protected groups.

In considering whether Waterloo's licensing bylaw appears to be discriminatory, the OHRC must examine whether:

1. Elements of the rental housing licensing regime create a distinction that causes someone to be disadvantaged; and
2. The disadvantage occurs because of that person's association with a *Code* ground.

The OHRC concludes that per-person floor area requirements in the Waterloo licensing bylaw will in some cases be discriminatory, and should be eliminated.

While the City has said that minimum separation distance (MSD) limits are not contained in the City's recently passed Official Plan, and while the City has indicated that it is now undertaking a review of its Zoning By-law, which includes considering minimum separation distances, the City has not yet eliminated MSDs. The OHRC concludes that there is no justification for requiring non-apartment, non-high-rise rental units to be located a minimum distance apart from one another. The practice is arbitrary, and should be eliminated to ensure compliance with the *Code*.

Note that the OHRC uses the term MSD while the City of Waterloo uses MDS – both terms are used in this report.

From the information we obtained during the inquiry, it does not appear that other aspects of the bylaw are discriminatory.

2. Inquiry methodology

The OHRC's inquiry looked into whether anyone may have experienced Code-based discrimination as a result of Waterloo's rental housing licensing regime. The inquiry is authorized under clauses 29 (c) and (e) of the Code which permit the OHRC to "undertake, direct and encourage research into discriminatory practices and to make recommendations designed to prevent and eliminate such discriminatory practices" and to "initiate reviews and inquiries into incidents of tension or conflict."

The OHRC's mandate includes protecting the human rights of people who are vulnerable because of their age, receipt of public assistance, disability, family status and other factors. Many vulnerable people rely on rental housing. The inquiry was designed to collect information about these people's experiences with the rental housing licensing bylaw, and to collect information about the City's processes and policies relating to rental housing licensing.

2.1 Surveys and follow-up to surveys

The OHRC used surveys to collect information from tenants, landlords and organizations that help people who are looking for rental housing. Targeted outreach for this project included making surveys available on the OHRC's website, and emailing them directly to agencies that work with vulnerable people in the Waterloo community.

The OHRC did not accept any anonymous submissions, but did make a commitment to respect the confidentiality of responses. The OHRC did not disclose surveys to any party.

The survey period ran from March 8 to April 30, 2012. The OHRC received 228 submissions from people and organizations in Waterloo.

The OHRC conducted follow-up interviews with a number of survey participants via telephone and email in 2012, and again in early 2013.

Our goal was to collect people's stories about the impact of the bylaw. The surveys were not designed to constitute a statistically representative sample of the community. Instead, the goal was to collect qualitative data. The resulting responses have given the OHRC valuable insight into effects and potential effects of the bylaw and the experiences of the people who did respond.

The OHRC heard from tenants of diverse ages, backgrounds and household compositions. Of the 66 tenants who completed surveys, about half were students, and half were 25 years old or younger. A majority were single, living in a range of households, from renting a room from a family, to living alone, sharing a unit with one or two friends, or living in collective households of several people, or in lodging houses. Several reported living with a partner, and 11 tenants

reported having families with 1 – 6 dependents. Several reported that they or other household members share bedrooms. About a quarter were first-time renters in Waterloo.

Landlord responses ranged from a tenant who had a lodger, to landlords renting out one or two rooms in their homes, to owners of multiple properties. Just under one-third of landlords taking part in the survey lived in the same building as their tenants, and more than half owned only one property.

2.2 Additional comments

The OHRC provided contact information on its website for anyone who had questions or comments about the inquiry, and received 44 calls, letters and emails from residents outlining their perspectives and concerns. About 20 of these were from non-landlord homeowners and others not clearly identified as landlords or tenants, expressing various views on the bylaw.

2.3 Materials disclosed by the City

The OHRC requested, under clause 31(7)(a) of the *Code*, that the City share documents they had relating to the purpose and implementation of the bylaw. The OHRC reviewed the materials provided by the City – including documents about public consultations, reports, complaints relating to the bylaw, minutes from City Council meetings, and emails sent to and from City staff.

2.4 Correspondence with the City

The OHRC corresponded with the City and requested more information, where necessary, to make sure that the City's positions are accurately represented in this report.

2.5 Other information

The OHRC analyzed the information gathered from the surveys, additional commentary, disclosure materials and discussions with the City, along with data gathered from other sources, including primary and secondary sources and legal and social science research. The report was also informed by the OHRC's previous work on housing, including province-wide consultations with planners, tenant groups and a broad range of people in the housing sector.

This report is based on all of the submissions and information that the OHRC reviewed during the inquiry process.

3. Background

In discussions with the City starting in late 2010, the OHRC raised a number of concerns about whether the bylaw was targeted at, or would have a negative impact on, people protected by the *Code*. Although the City made some changes, when it passed the bylaw, some concerns remained unaddressed. The OHRC decided to inquire further.

3.1 An overview of Waterloo's Residential Rental Housing Licensing By-law

The City of Waterloo's rental housing licensing bylaw was passed in May 2011 and came into effect on April 1, 2012.

The licensing bylaw regulates:

- Non-owner-occupied rentals with up to 4 bedrooms (Class "A")
- Owner-occupied units with up to 4 bedrooms for rent (Class "B")
- Lodging houses (rental units with 5 or more bedrooms – Class "C").

Requirements for Class "A", "B" and "C" licences are:

	Bedroom limit	Per-person floor area requirement in bedrooms	Gross floor area requirement	Other requirements (not all are specified here)
Class "A"	Up to 4	7 square metres	No more than 40% bedrooms	
Class "B"	Up to 4 for rent	7 square metres	No more than 50% bedrooms	
Class "C"	5 or more	7 square metres	N/A	<ul style="list-style-type: none"> • The building cannot: <ul style="list-style-type: none"> • be more than 600 square metres • be more than 3 storeys • have more than 2 bathrooms • have more than 1 kitchen. • All bedrooms must have doors capable of being locked. • The owner must have written lease agreements with all tenants over age 16.

Unless renewed, a licence will expire “on the 31st day of March next following the issuance or renewal of the licence.”¹

The bylaw establishes limited exemptions to the four-bedroom limit and the gross floor area requirements for Class “A” and “B” properties:

- Owners of rental housing properties that, as of April 1, 2012, already had written leases with five occupants were eligible until June 30, 2012 to apply for a Class “A” licence for a 5-bedroom property (or for a Class “B” licence for an owner-occupied property with five rented bedrooms). The provision granting such exemptions “expire[d] and be[came] of no force or effect after December 31, 2012.”²
- Rental housing properties in which bedrooms exceed the gross floor area requirements but are in compliance with federal or provincial legislation and regulations, and with all City bylaws, were eligible until June 30, 2012 to apply for a Class “A” licence (or a Class “B” licence if the property is owner-occupied), but the exemption will become void if the property’s gross floor area for bedrooms increases, or if the licence expires.³

The licensing bylaw also regulates

- Recognized lodging houses (Class “D”)
- Temporary rental units (Class “E”).

Requirements are:

- Rental housing properties that were licensed as lodging houses under the City’s old lodging house bylaw may be grandparented as Class “D” units (and do not have to meet the Class “C” requirements described above), but the number of *bedrooms* cannot exceed the number of *persons* permitted under the old licence, and “[o]nce a Class “D” licence has expired, no person may thereafter apply for, or otherwise renew, a Class “D” licence in respect of the Rental Unit.”⁴
- Applications for Class “D” (grandparented) licences had to be submitted by June 30, 2012.
- Non-renewable temporary Class “E” licences may be granted for up to 36 months, at the City’s discretion.

To get an initial licence, landlords must pay the City a “preliminary consultations” fee of \$68.15 and a licensing fee ranging from \$374.82 to \$757.30 (depending on unit type). After that, they must renew the licence annually (renewals cost less than initial applications).

¹ *By-law 2011-047, Being a by-law to provide for the licensing, regulating and governing of the business of residential rental units in the City of Waterloo (amended by By-law 2012-004);* section 4.6.

² *Ibid*, Schedule 1 sections 2, 4 and 5 and Schedule 2 sections 2, 4 and 5.

³ *Ibid*, Schedule 1 sections 3, 4 and 5 and Schedule 2 sections 3, 4 and 5.

⁴ *Ibid*, Schedule 4 section 1(d).

According to the bylaw, the City may ask for a number of items on a yearly basis, including:

- A list of tenant names and contact information
- Proof of insurance
- Heating, ventilation and air conditioning "HVAC" inspection certificate
- Confirmation that the unit complies with the *Building Code Act* (and regulations under it, including the Building Code), the *Fire Code Protection and Prevention Act* (and regulations under it, including the Fire Code), and the *Electricity Act* (and regulations under it, including the Electrical Safety Code)

According to the bylaw, the City may ask for certain items at the time of first application and every five years after that, including:

- Police clearance certificate for the owner/applicant
- Electrical Safety Authority "ESA" inspection certificate
- Floorplans
- Plans for maintaining the property, parking and garbage disposal.

Landlords who fail to abide by the bylaw can have their licences revoked or suspended, and/or face fines of up to \$25,000 for a first offence (for an individual) or up to \$50,000 for a first offence (for a corporation). Fines increase for subsequent offences.

The bylaw stipulates that the Director of By-Law Enforcement, before revoking or suspending a license, shall consider:

- (a) the impact of any such licence revocation or suspension on any Tenants; and
- (b) imposing terms or conditions on any such licence revocation or suspension that would minimize the adverse impact on any Tenants, including the possibility of providing a reasonable time period before the licence revocation or suspension takes place to permit Tenants to find new housing or to seek relief in a Court or before the Ontario Landlord and Tenant Board.⁵

3.2 An overview of related zoning bylaw provisions

All rental properties (classes "A" through "E") that house more than three renters are defined as "lodging houses" in the City's zoning bylaws:

"Lodging House" [means] a building, or portion thereof, designed or used for residential occupancy where a proprietor offers lodging units for hire or gain directly or indirectly to more than three other persons with or without

⁵ By-law 2011-047, *Being a by-law to provide for the licensing, regulating and governing of the business of residential rental units in the City of Waterloo (amended by By-law 2012-004)*; section 5.3.

meals. A lodging house shall not include a hotel, motel, bed and breakfast, nursing home, group home, institutional or other similar use that is licensed, approved or supervised under any general or special Act.

“Lodging House [-] Class One” [means] a lodging house which is located in the whole of a building and:

- (i) occupied by four or more persons in addition to the proprietor and his/her household; or
- (ii) occupied by 6 or more persons without a proprietor and his/her household.

“Lodging House [-] Class Two” [means] a lodging house [located] within a dwelling unit occupied by 4 or 5 persons without a proprietor and his/her household.⁶

Lodging House Class One properties are included on the list of acceptable uses in certain medium and higher density zones in the City. These properties are subject to approval by a site plan review committee.

Lodging House Class Two properties are permitted in a number of lower-density zones, but certain minimum separation distances apply to them. For example, a Lodging House Class Two must be located at least 150m from any other Class Two properties in certain lower-density zones, and must be located at least 75m from any other Lodging House Class Two in certain medium density zones. For more information on this point, see the section on minimum separation distances, in section 4.2 of this report.

The City has developed a community improvement plan and passed an official plan amendment and zoning bylaw amendment affecting housing in the Northdale neighbourhood, immediately adjacent to both the University of Waterloo and Wilfred Laurier University. This initiative will likely affect the types of housing available in the area. While this initiative has been adopted by Waterloo City Council, it is not yet in force because appeals have been made to the Ontario Municipal Board. The Northdale initiative was not the focus of the OHRC’s inquiry; the OHRC did not assess the interaction of the initiative with residential rental housing licensing, nor did it seek information about how the initiative might affect tenants in Northdale.

⁶ City of Waterloo Zoning By-Law Nos. 1108 and 1418, as amended; sections 2.41.1 – 2.41.3 and sections 2.44.1-2.44.3 respectively. Text that appears in one bylaw but not the other is enclosed in square brackets.

3.3 Impetus for the bylaw

Since 1986, Waterloo has done many studies into regulating rental housing. There have also been several related legal cases and legislative changes:

- In 1986, the City instituted a lodging house bylaw following a recommendation by a coroner's inquest into the fire-related death of a student. The bylaw was amended in 2000. Under the amended bylaw:
 - Landlords renting to four or more lodgers had to be licensed, and were subject to regular fire inspections
 - Landlords renting to a group of people who made up a "residential unit" (characterized, among other things, as a "single housekeeping unit") did not need to be licensed.⁷
- In 2003, the Ontario Superior Court of Justice found that multiple units in an older building which were leased to students met the "residential unit" exemption of Waterloo's lodging house bylaw. When determining if the exemption applied, the Court considered whether the premises constituted a "single housekeeping unit." The Court held that the distinguishing characteristic was whether there was individual or collective decision making with respect to the control of the premises. This decision was affirmed by the Ontario Court of Appeal.⁸
- In 2004, the City launched a Student Accommodation Study, and in the following years it embarked on several studies to examine alternative regulatory programs for lodging houses, and also for smaller-capacity rental houses.
- On January 1, 2007, the *Municipal Act* was amended to allow licensing of "residential unit" rental properties.
- In a 2010 report, City staff expressed concerns that rental unit owners were dismissive about fire prevention directives.⁹
- In a 2011 report, City staff stated:

Based on the current Lodging House By-law, many of the 4,300 currently unlicensed properties may not require a licence. This is a result of court decisions narrowing the scope of the by-law to a degree that renders the current legislation very ineffective in dealing with the issues that are of concern city wide.¹⁰

In 2010, the City announced that it would conduct a "Rental Housing Licensing" review. It used its new powers under the *Municipal Act* to initiate a licensing regime for low-rise rental units when it passed the rental housing licensing bylaw in 2011.

⁷ City of Waterloo By-Law No. 86-121, *A By-Law to Provide for the Licensing, Regulating and Governing of Lodging Houses in the City of Waterloo*, as amended by By-Law 00-140, ss. 2.4; 3.3.

⁸ *Good v. Waterloo (City)*, CanLII 14229 (ON SC), aff'd 2004 CanLII 23037 (ON CA).

⁹ *Rental Housing By-law Report PS-BL2011-001*, page 6.

¹⁰ *Residential Rental Housing By-law, PS-BL2011-007*, page 3.

The bylaw states that the City's purpose in regulating rental housing is to

- i. Protect the health, safety and human rights of renters,
- ii. Ensure that certain essentials such as plumbing, heating and water are provided to renters, and
- iii. Protect the residential amenity, character and stability of residential areas.¹¹

Health and safety

Health and safety considerations appear to have been a significant driving force behind creating the bylaw. City staff explained frustrations with the previous system, in a 2010 report:

One major challenge that Fire Prevention [who administered the bylaw along with Zoning and Building divisions] faces is the dismissive behaviour of owners towards the direction given to them. Often, they continue to operate and claim [the] house is not "Lodging" but rather a single house-keeping unit¹²

On the new bylaw's approach to fire safety, the City said:

...the new licensing regime continues to have regular fire inspections. Instead of scheduled annual or bi-annual inspections of every unit, the City now conducts risk-based and random inspections. Based on an extensive consideration of the issue, including input from trained fire professionals, the City believes that this change will both improve fire safety and be more cost-effective (thus, keeping licencing fees lower, which, in turn, may keep rent lower).¹³

Residents of Waterloo raised other health and safety concerns about rental housing, including mold, poor ventilation and insufficient heat.¹⁴

According to the City, less than six months after the bylaw had been implemented, "dozens of Building Code deficiencies and violations [had] been

¹¹ *Waterloo Rental Housing Licensing Bylaw 2011-047*, preamble.

¹² *Rental Housing By-law Report PS-BL2010-001*, page 6.

Fire Marshall Delegate Review No. FM-0602 (July 28, 2006) indicates that in 2006 (after the Court in *Good* had restricted the application of the definition of "lodging house" in the City's lodging house bylaw), a Fire Inspector issued orders against a house, even though it was not a "rooming house." The orders were appealed and rescinded because:

- The student renters leased the whole house, not single rooms in a "rooming house"
- ss. 22(1) of the *Fire Protection and Prevention Act* prohibits an inspector from issuing an order on a building that complies with the Building Code and to which retrofit sections of the Fire Code do not apply
- Occupants being unrelated does not automatically increase the fire hazard
- There was no indication that the building and occupancy presented a more hazardous fire situation than other single-family dwellings.

¹³ Letter from the City's counsel to the OHRC, September 28, 2012.

¹⁴ Various emails to City.

identified by the City” and “more than 80 percent of the electrical inspections required by the by-law [had] identified defects.”¹⁵

The OHRC has consistently acknowledged the validity of health and safety rationales for licensing. Some of the new licensing bylaw requirements – such as compliance with the existing health and safety standards set out in the Fire Code, the Building Code and the Electrical Safety Code – appear related to the City’s stated goal of resident safety.

If other aspects of the bylaw that go beyond the Building Code and Fire Code – such as the bylaw’s per-person and gross floor area requirements – are meant to meet genuine health and safety (or planning) rationales, it is not clear why the City has exempted apartment buildings.

The City has commented that:

...there are good reasons to be particularly concerned about the standards of rental housing that do not apply as directly or forcefully to exclusively owner-occupied units. Renters are much more at the mercy of their landlords and generally have less ability to physically upgrade their premises than a homeowner. Landlords have a profit-driven incentive to minimize cost, which may impact on tenant health and safety if unchecked by licensing standards. The Building Code and the Fire Code also reflect that it is appropriate to impose requirements on lodging houses that are not required of other housing types. While there is an obvious functional overlap, operating a rental housing business is not identical in every fashion to operating an owner-occupied residence, and the City’s by-laws (and provincial legislation) reflect this.¹⁶

If any of the bylaw requirements are discriminatory, the City must not simply show that it had “good reasons” for the requirement, but must show that it meets a vital need in a way that no alternative measure could. It is a very high standard.

Other factors

In addition to health and safety, the bylaw may be responsive to certain complaints received by the City. Documents disclosed by the City showed that there were significant numbers of complaints about the character of neighbourhoods, properties not being maintained by landlords, and the behaviour of some residents (including students). For example, there were:

- Many complaints related to run-down properties. These included concerns about uncut grass, weeds, unshoveled sidewalks, untrimmed bushes, debris on lawns and porches, and garbage left out after the pick-up day and left to sit for days or weeks.

¹⁵ Letter from the City’s counsel to the OHRC, September 28, 2012.

¹⁶ Letter from the City’s counsel to the OHRC, November 16, 2012.

- Several complaints about poor maintenance and repairs to the interior of rental properties. These included concerns about failure to clean carpets after sewage backup, broken doors, locks, windows and bathroom tiles.
- Several tenant behaviour-related complaints, particularly about noise (from people in the street, children, late-night parties and tenants' pets); broken bottles on sidewalks, streets, rental properties or neighbouring owner-occupied properties; and parking on grass.¹⁷

City documents show there was a much higher proportion of by-law enforcement complaints against rentals than non-rentals.¹⁸ The City received a number of complaints from the public about ineffective enforcement of the noise, parking and property maintenance bylaws, and/or the need for more staff to enforce bylaws.¹⁹

Where the City has imposed requirements – such as plans for parking and property maintenance – in an effort to address valid planning concerns and in a way that does not disproportionately affect Code-protected groups, then those requirements are appropriate.

However, some people expressed their concern that the bylaw had yet another motivation: to limit housing for certain vulnerable groups.

One tenant surveyed who receives Ontario Works benefits said of the City, “they don't want poor people here any more.”

While at least one student organization appears to have supported the bylaw²⁰ and some students raised concerns about rental housing and the need for more monitoring,²¹ other students criticized the bylaw, directly to the City and also in the media,²² and raised concerns about its impact on students.

One student surveyed said: “This bylaw will force students into massive student apartment complexes.”

¹⁷ Various emails to City.

¹⁸ Internal City email with complaint numbers, March 16, 2011; City slideshow with complaint numbers, undated.

¹⁹ Various emails to City.

²⁰ Email from student organization representative to City, April 7, 2011.

²¹ Email to City, January 14, 2012. Opinion, “Living conditions are appalling in low-cost student housing,” *The Cord*, January 12, 2011 and The Editorial Board, “Unlicensed rental properties a concern for students,” *The Cord*, January 11, 2012.

²² Email forwarded to City February 10, 2011, and email to City April 21, 2011; newspaper articles including for example Adam Klett, “Big Trouble for Low-Rise Housing in Waterloo,” *Iron Warrior*, January 19, 2011 and Erin Matheson, “The Waterloo Open House for Rental Units,” *Iron Warrior*, February 2, 2011.

One parent wrote to the City expressing concern that:

[The] by-law can regulate someone's freedom to a private and quiet right to live in a town of their choice near the University of their choice. I am also very upset and disappointed with this regulation as I truly agree that this is a serious infringement on our basic human rights and impacts to our freedom of choice of where to live.²³

There certainly were concerns about student housing in the community. Some residents shared concerns with the City about how what they viewed as "family" neighbourhoods were becoming "student" neighbourhoods.²⁴

City documents from 2002 and 2003 show a policy of encouraging development of high-density apartment housing in nodes and corridors near universities. While one of the stated goals is to increase student housing near universities in response to student preference, another is to "draw students out of existing singles, thereby increasing the numbers of singles available for non-student households..."²⁵ Another document stated in 2004 that the goal of the City's land use plan was "to encourage more student housing in areas of high intensity near the Universities and discourage the conversion of low density housing to student rental housing in areas of low intensity."²⁶

The City states that its bylaw had no intent to target students:

The statistical reality is that a large proportion of rental housing in Waterloo constitutes student housing. Accordingly, students are directly affected by the Rental Housing Licensing By-law, and it would be irresponsible for the City not to take this into account. To suggest that the City actively treats students or young people differently than other persons, however, is simply incorrect. The by-law specifically excludes student residences operated by a college or university. The by-law does not apply to apartment buildings, even though apartment buildings constitute, by a very wide margin, the most common type of new construction designed for student housing.²⁷

The City states that:

[It] understands its duty not to discriminate against Code-protected groups. Indeed, as a municipality, it is obligated not to pass by-laws that improperly discriminate against any person, Code-protected or not. It complies scrupulously with this obligation.²⁸

²³ Email to City, May 24, 2011.

²⁴ Various emails to City.

²⁵ *Height and Density Policy Discussion Paper DS02-38*, June 12, 2002, page 23.

²⁶ *Student Accommodation Study Final Report DS04-47*, July 30, 2004, page 5.

²⁷ Letter from the City's counsel to the OHRC, September 28, 2012.

²⁸ Letter from the City's counsel to the OHRC, September 28, 2012.

The OHRC acknowledges that some City documents clearly reflect this understanding. The City included language in the bylaw referencing the *Human Rights Code*, and representatives of the City have publicly indicated that the bylaw cannot target students.²⁹

3.4 Alternatives to the bylaw

As described above, the City has identified that the goals of its bylaw are to protect the health, safety and human rights of renters, to ensure that certain essentials such as plumbing, heating and water are provided to renters, and to protect the residential amenity, character and stability of residential areas.

Other tools also address these goals. For example, existing provisions in the Fire Code and Building Code work to protect the health and safety of renters. Inspections can occur and be mandated under a bylaw that does not also draw in per-person floor area requirements and other elements that could disadvantage *Code*-protected groups.

The OHRC challenges municipalities, including Waterloo, to question whether their licensing bylaws add restrictions without adding additional protections.

The City states that the rental housing licensing bylaw must be examined "within the context of the broader set of municipal programs designed to address a variety of inter-connected issues, including the sufficient availability of good quality rental housing, health and safety of tenant and non-tenant municipal residents, property and community standards, and both short-term and long-term planning issues."³⁰

The City has stated that it is not attempting to address behavioural issues through the bylaw. That is good, as a rental housing licensing bylaw is not an appropriate place to address any such issues. In documents disclosed to the OHRC by the City, a number of recommendations unrelated to licensing have been made to address complaints about behaviour issues in student housing and other types of housing.³¹

²⁹ Notes from a Town and Gown meeting, January 25, 2011; Email to the public, April 21, 2011

³⁰ City staff letter to OHRC Executive Director, December 22, 2010.

³¹ Recommendations/Actions in the City's *Student Accommodation Study Final Report* DS04-47 (July 30, 2004) include: improving proactive by-law enforcement in the areas near the universities; increasing the penalty for illegal lodging houses; working with the regional police to prevent noise and alcohol violations and penalize violators; continue to work with the universities to establish programs to encourage acceptable off-campus behaviour; increase community awareness of bylaws and enforcement activities; and increase communication and understanding among all stakeholders.

Many of these were later implemented and shown to be effective, including:³²

- Community Mobilization Police Officer and Community Development, Town and Gown liaison staff visits to offending houses
- Neighbourhood building events
- Mediation service.

3.5 Implementing the bylaw

In Room for everyone: Human rights and rental housing licensing, the OHRC recommends that municipalities that are considering rental housing licensing consult with groups who are likely to be affected by that licensing, through accessible, well-advertised general meetings and also through targeted outreach to vulnerable or marginalized groups.³³

The City has provided the OHRC with a list of public meetings and other consultations undertaken as part of its process, including meetings with university and student union leaders, landlord groups and others before it passed the bylaw.³⁴ It sent numerous mailings out to landlords. The City also offered training sessions to landlords.³⁵

A community organization that responded to the OHRC's survey said that the City did not consult with them, but that they "...had the opportunity to comment as did any member of the public before the bylaw was passed." However, they said they didn't realize until more recently the effect the bylaw might have on their "usual client base" because they understood it to be more of "...a 'student housing' strategy." They said they have since learned that it may affect the availability of rooming houses and have other implications for tenants.

In April 2011, an organization told the City that many tenants and other residents were unaware of the process, and assumed the bylaw related only to students.³⁶

Some residents raised concerns with the City about the lack of representation of students, and/or of renters more generally, in the process.³⁷

³² *Town and Gown* report, 2005. This report stated at pages 3, 8 and 9 respectively that visits to offending houses "although labour intensive, have been very successful and have a very low recidivism rate;" it stated that neighbourhood building events "creat[e] a sense of community for the students and they are able to meet their neighbours being helpful in the future when they want to or need to approach them;" and it stated that the mediation services "program is useful for issues that are not covered by an enforcement issue or where it seems more appropriate to discuss the issue for a resolve rather than having the issue go through the Court system."

³³ *Room for everyone: Human rights and rental housing licensing*, OHRC, recommendation 2.

³⁴ Letter from the City's counsel to the OHRC, September 28, 2012.

³⁵ Various emails from City staff.

³⁶ Organization report submitted to City of Waterloo, April 25, 2011: "We are deeply concerned that the majority of Waterloo's residents have assumed that this bylaw is about addressing the 'student housing problem', and are uninformed about its broader implications."

³⁷ Various emails to City.

One person wrote about being “very concerned at the lack of representation of renters” at a consultation meeting, and asked the City to consider “moving one of the meetings to the university in an effort to attract student renters” to hear from students in addition to landlords.³⁸ Another said “[g]iven the scary environment at the earlier consultations, I think staff may need to solicit meetings with non-landlord property owners, and with students and other tenants.”³⁹

At a Town and Gown meeting on June 28, 2011, a student federation representative told the City that there was a lot of “misinformation circulating” about the bylaw.⁴⁰

One student tenant survey respondent said, “the consultation did not do a respectable job of engaging the citizens it was going to most directly affect.”

The City has stated to the OHRC: “Anyone who is legitimately confused about the application of the Rental Housing Licensing By-law need only contact the City. Staff will be pleased to assist.”

While it appears that the City held many publicly advertised meetings and other consultations, and conducted valuable targeted outreach to and training for landlords, it also appears that the City was not always successful in communicating information about the bylaw (particularly before it was enacted) to tenants who might be affected by it.

In *Room for everyone: Human rights and rental housing licensing*, the OHRC recommends that licensing bylaws be rolled out in a consistent, non-discriminatory way.⁴¹ Waterloo appropriately applied its bylaw to the entire city, from the outset.

3.6 The current housing environment

In *Room for everyone: Human rights and rental housing licensing*, the OHRC says:

In accordance with the 2005 *Provincial Policy Statement*,⁴² municipalities should provide for an appropriate range of housing types and densities required to meet projected requirements of current and future residents by, among other things, establishing and implementing minimum targets for providing housing that is affordable to low and moderate income households.⁴³

³⁸ Meeting feedback form, January 13, 2011.

³⁹ Email to City, April 11, 2011.

⁴⁰ Town and Gown meeting notes, June 28, 2011, pg. 1.

⁴¹ *Room for everyone: Human rights and rental housing licensing*, OHRC, recommendation 4.

⁴² *Provincial Policy Statement*, Government of Ontario, 2005, section 1.4 (Housing).

⁴³ *Room for everyone: Human rights and rental housing licensing*, OHRC, recommendation 5.

During the inquiry, the OHRC heard concerns that the current rental housing market in Waterloo is challenging, especially in terms of cost and availability. An organization that responded to the OHRC's survey said that it has become harder for people to find housing in Waterloo in the neighbourhood of their choice, explaining that "cost and availability are linked challenges." The agency said that youth, trans men and women, large families, people with mental illnesses and addictions, people on Ontario Works and some Muslim families all report that landlords discriminate against them, and that some landlords resist housing women fleeing violence:

...We have landlords and neighbours tell us that youth, people with mental illnesses and addictions, and women fleeing violence, should not be housed in their neighbourhoods. Typically, these landlords and neighbours claim to have the [well-being] of our clients in mind, and state that their neighbourhoods are simply not the right ones (because they lack supports and amenities, are too far from bus routes, are unsafe, etc.) for our clients to live in.

Another organization said:

Many clients, whether in Waterloo or not, have problems finding affordable and decent housing due to their low incomes. Having disabilities, particularly mental health issues, can also make it very difficult [to] find safe and affordable housing locally. Large families (especially those on fixed low incomes) have a very difficult time finding adequate and affordable housing.

A tenant who identified as having a "lower income" shared her concerns about decreasing availability of affordable housing in Waterloo:

While I have been hearing on the radio about the need for affordable housing it seems to me that Waterloo has been making laws that are removing much of the affordable housing already available.

... Now the city has made even renting a room more difficult as not all landlords will be willing to go through the process and expense of getting licensed, and if they do will probably pass along the expense to their tenants. While it may not have been the city's intent, it does feel to me that because I have a lower income I am not very welcome in Waterloo.

A tenant who received Ontario Works benefits said "it is already REALLY HARD" to find "reasonable accommodation," and that "rent would go up, of course."

The OHRC heard that some landlords rent only to students. On the other hand, one tenant said he has heard landlords say things like "students can't be trusted and will turn everything into a party," and many state students aren't allowed.

A landlord recently told the OHRC that the housing market has changed in that “now there’s an enormous over-supply of housing for students... because of all the new ones that were opened up last year [in 2012].”

Some tenants raised concerns about the *type* of supply, however. One student tenant said:

I think the strategy they’re using is to eliminate all the low-rise buildings for students. They’re building high-level residences ... [the city has passed] the bylaw so that more students will have to move into the new high-rise buildings. Like this year, next to the school, one is charging \$700 per month per person – now I’m paying \$450 a month.

... [They’re] eliminating the affordable housing options. The difference between \$450 and \$700 per month is really a lot of money. We can save 3k here [in our house] per year, vs. one of those high-rises. People renting houses use the money from OSAP – we still have to pay those loans back, and we’ll have double the housing costs to pay back.

Some landlords provided similar information. One, who had three students sharing a 3-bedroom apartment for \$1,100 per month, said “they find this much more affordable than the \$5-600 monthly rent (each) in the new towers that the city is promoting.”

The City stated in its 2004 *Student Accommodation Study Discussion Paper* that “Apartment buildings are a better form of student housing than converted lodging houses for several reasons” including their greater capacity, less significant history of noise, maintenance and property standards complaints, preference of students for smaller units (1–3 roommates), and because of the opposition of permanent residents to lodging houses.⁴⁴

The City opined that the bylaw cannot be examined in isolation and that “the exceptionally few lawful rental units that may have been “lost” as a result of the Rental Housing Licensing By-law have been more than amply replaced by new construction or the change in use of other, previously non-rental properties.”⁴⁵

⁴⁴ See *Student Accommodation Study Discussion Paper* DSO4-16 (March 3, 2004), pg. iii. In its later *Student Accommodation Study Final Report* DSO4-47 (July 30, 2004), the City stated: “Any long term plan for student housing must recognize the transient nature of students. Most students will spend 3 to 5 years in the community and then they will leave. To expect that students will be committed to the long term future of a neighbourhood is naïve and unrealistic... Single detached homes and condominium townhouses are not the most appropriate forms of housing for a transient population. Whereas apartment buildings are appropriate.” See page 16.

⁴⁵ Letter from the City’s counsel to the OHRC, September 28, 2012.

The City states that:

It is the City's best information that rents have remained stable across the municipality, that the vacancy rate has slightly increased, and that the number of rental units on the market has significantly increased since the Rental Housing Licensing By-law was passed in 2011.⁴⁶

In 2010, the City shared with the OHRC a number of its strategies to support a diverse housing stock, including:

- Promoting a range of housing types and tenures
- Maintaining a Town and Gown committee
- Facilitating community development programming
- Conducting a Student Accommodation Study
- Zoning many Planning Districts in the City to allow for low-rise multi-unit housing forms like duplexes, triplexes and townhomes
- Facilitating the development of affordable cooperative housing through the purchase and redevelopment of a former inner-city school
- Using development "per bedroom" charges to help smaller units
- Granting development charge payment deferrals to property developers who have provided "affordable" housing
- Granting exemptions from development charges for student residences on lands designated as "Major Institutional"
- Developing an inspection program to ensure life safety in these units
- Formally recognizing over 500 accessory apartments.⁴⁷

4. Reported impacts

During the inquiry, the OHRC heard concerns from tenants, landlords and other individuals about:

- Per-person floor area requirements
- Minimum separation distances
- Different systems based on number of bedrooms
- Gross floor area requirements
- Licensing fees

⁴⁶ Letter from the City's counsel to the OHRC, September 28, 2012.

⁴⁷ Letter from City staff to the OHRC Executive Director, December 22, 2010.

4.1 Per-person floor area requirements

In most cases, the bylaw requires that each rented bedroom "shall be a minimum of seven (7) square metres per occupant." This requirement is significantly more stringent than the Building Code.⁴⁸ This requirement could render many Building Code-compliant bedrooms un-rentable to couples, or to other renters or family members who intend to share the bedroom.

A City document from 1989 states that imposing a minimum floor space per person "would affect large families."⁴⁹

The City commented:

The floor space requirements were not based on formal published standards; they are designed to provide tenants with adequate accommodation, including reasonable-sized rooms, consistent with the City's health and safety concerns and the City's intention to maintain rental housing stock in accordance with its short-term and long-term planning objectives. The local universities have identified serious mental health issues observed in their students relating directly to housing conditions, and they urged the City specifically to incorporate floor space requirements in its Rental Housing Licensing By-law with a view to ensuring that tenants have healthy and liveable accommodations.⁵⁰

The City states that, since its 1989 report, its work on numerous projects ensures that families and other Code-protected groups do in fact have adequate housing available, and that the floor space requirements do not negatively affect them in "any material fashion."⁵¹ It cites concerns about a trend toward sub-standard housing, with unreasonably small bedrooms and unreasonably little amenity floor space as a rationale for these requirements.

The OHRC supports the City's efforts to address genuine health and safety concerns. However, if the rental housing in question meets Building Code, Fire Code and electrical safety standards, and would be acceptable if it was owned

⁴⁸ Section 1.4.1.2 of the Building Code defines a "dwelling unit" as a "suite [which in turn is defined as "a single room or series of rooms of complementary use, operated under a single tenancy..."] operated as a housekeeping unit..."

Sections 9.5.7.1 and 9.5.7.2 of the Building Code require the following per-bedroom (rather than per-occupant) floor areas in dwelling units:

- 9.8 square metres for a master bedroom without built-in closets
- 8.8 square metres for a master bedroom with built-in closets
- 7 square metres for other bedrooms without built-in closets
- 6 square metres for other bedrooms with built-in closets.

Section 9.5.7.4 of the Building Code requires that "Sleeping rooms other than in *dwelling units* shall have an area not less than 7 m² per person for single *occupancy* and 4.6m² per person for multiple *occupancy*."

⁴⁹ *Related/Unrelated Persons Legislation: Zoning By-law Amendments*, 89-98, page 9.

⁵⁰ Letter from the City's counsel to the OHRC, November 16, 2012.

⁵¹ Letter from the City's counsel to the OHRC, September 28, 2012.

housing, it is not clear on what basis or by what standard the City is defining such housing to be unreasonable or "sub-standard."

One tenant said:

...I'm friends with a refugee family who ... at one point they were living in a two-bedroom apartment, and there were quite a lot of them living there, and I'd hate if this bylaw was against them – they had 3 children in one room, the mom and her sister in the other room.

She also shared her concerns about how the 7m² requirement could affect her, given that her daughters shared a room smaller than that:

My two daughters (5 and 2) share a small bedroom, my husband and I have a bedroom, and my unborn child will soon occupy the third bedroom. We also usually have a boarder in a large finished basement room. I'm not sure how this bylaw will affect us but I'm nervous it will in some way. We are a low income family, so any rise in rent would be very harmful to us. Also, I would never want my daughters in a separate room, even if I had the space, because I see how it bonds them and enriches their lives ... I wouldn't want to know that my family was somehow breaking the law by having my kids share a bedroom."

The OHRC followed up with this tenant recently. She said that a bylaw officer visited her home and told the landlord that the 7m² requirement wouldn't apply to them, because she had signed the lease before the bylaw came into effect, but wouldn't provide her landlord with anything in writing about the exception. She said that she was worried about finding a place if she ever has to move. She also stated:

I did express my concern to the bylaw officer about my kids sharing a room and the human rights impact of the bylaw, and the bylaw officer said it was because of human rights that they had to apply it to families and students the same.

Some landlords told the OHRC that they have had to turn away families because if they accepted them they would be in breach of the 7m² requirement. Two landlords who each rent out three-bedroom houses recently described specific examples of this screening – in one case two adults and three children, in another two adults and six children. One of these landlords told the OHRC that she currently houses a couple and their three adult children. She said she contacted the City and was told that she could apply for an "exception," but had not yet finalized the process.

Another landlord's survey response said:

We would have to restrict our tenants to families of four or less, as the three bedrooms in our 1600 square foot townhouse would not allow for the 7 square metres per occupant if two children roomed together.

When the OHRC followed up with this landlord recently, she said:

The previous tenants moved out in October 2012. They were a family with two children. When finding replacement tenants for November [2012] our property manager only screened in applicants with a family configuration of two children or less in order to conform with this rule.

Other landlords say that while they originally feared that they would face challenges because of the 7m² requirement, those challenges did not become a reality. For example, one landlord stated on her survey that:

I will need to know if Mom + Dad intend to be together in the Master Bedroom, which is 12.9 sq metres – maybe I can't rent to family.

In a follow-up conversation with the OHRC, however, she told us that she:

... spoke with city by-law people about the size of the master bedroom and they did not have a concern since in their calculation process the measurement met the requirements.

Another landlord stated on her survey that:

My other property is rented to a family with small children which I might not be able to keep since its only a 3 bedroom and according to the new rental licence it might not accommodate 2 children in one room.

In a follow-up conversation with the OHRC, however, she said that while by her measurement the room shared by the children is 10 feet by 11 feet (less than 14 square metres):

[I]t must meet [the city's] quota I think, because I gave in the plans and gave the measurements, and they issued the licence, so I assume I met the requirements.

One landlord said:

I think if it's little kids, like under 16 or something, they can share. ... I don't remember where I heard that, that was my impression.

It is possible that the landlords above may have measured differently than the City and that, by the City's analysis, the 7m² requirement was fulfilled, or it is possible that the City granted licenses to these landlords in error. It is also possible that the City is granting exemptions in some cases to the 7m² requirement. If the City is granting exemptions to the 7m² requirement, the OHRC is not aware of whether these exemptions are time-limited, and is also not aware of any public guidelines that show how the City grants such exemptions.

Per-person floor area requirements imply that the landlord must ask intrusive questions such as whether the renters intend to share bedrooms, and make rules about how tenants use their home. Some landlords may be avoiding asking these questions. For example, one landlord said "how am I supposed to know

[about bedroom-sharing arrangements]? I don't ask." However, other landlords have said that they do ask intrusive questions and screen people out in an effort to abide by the 7m² requirement.

One landlord recently described having to tell a past tenant that his girlfriend couldn't move in because the bedroom was less than 14m², and also said she had screened out prospective tenants because of the rule:

I have had to ask intrusive questions of tenants because it appeared to me that some might share a bedroom that did not meet the 7m² per person per bedroom (for example when a group of people wanted to rent the house and some were boyfriend/girl friend), and I had to explain that this would technically be illegal. Then when they confirmed that indeed this was their intention, to share a bedroom, along with the rest of the house, I ended up turning them away because I was concerned I would have problems with the city if the property was inspected. Then I started asking all the prospective tenants that came through to see the house how they intended on using the house.

I thought if I ask them the personal questions before they move in to the house, and I screen them this way, then at least I wouldn't have to possibly evict someone later if the city inspected the house. Of course I didn't want to be asking anyone questions about their personal living arrangement and relationships. This always made me feel very uncomfortable.

Under s.10 of the *Residential Tenancies Act*, and under Regulation 290/98 of the Ontario *Human Rights Code*, landlords are permitted to use a limited set of criteria when selecting prospective tenants – none of which include how many people will be sharing bedrooms.

The City states that the new bylaw does not require more intrusive landlord questioning than was required under the previous bylaw, and that:

The previous licensing by-law applied if more than three persons rented a unit who were not operating as a single housekeeping unit. The inquiry necessary to determine if a group of persons constituted a single housekeeping unit included consideration of whether they exhibited collective decision-making, whether they functioned as a cohesive unit, and what level of familiarity they had with one another, including how many people used any given bedroom.⁵²

⁵² Letter from the City's counsel to the OHRC, September 28, 2012.

The City states that it abandoned the "single housekeeping unit" criteria in part because the test was difficult for landlords to apply and the City was concerned that some non-traditional families and other households could be improperly denied rental housing as a result.⁵³

However, the bylaw's per-person floor area requirements are being applied to all housing captured by the bylaw, not just to lodging houses. This means that tenants of most low-rise rental housing are now subject to intrusive questioning and rules about sharing bedrooms, and can potentially be excluded from housing on that basis.

Questioning people about sharing bedrooms can be discriminatory based on *Code* grounds such as marital status, family status and sexual orientation, as it indicates an intent to deny housing based on these grounds. It is the OHRC's position that people should be able to share a bedroom without the scrutiny of the landlord or the City.

Exclusion from housing based on the tenants' intention to share a bedroom could lead to human rights complaints relating to marital status, family status, sexual orientation, and possibly other grounds.

The OHRC has heard that the per-person floor area requirement of 7m² has caused landlords to limit housing opportunities for *Code*-protected groups, like larger families. The requirement means landlords may have to ask intrusive questions about sleeping arrangements.

The OHRC concludes that the bylaw's per-person floor area requirements will in some cases be discriminatory. As noted in *Room for everyone: Human rights and rental housing licensing*, recommendation 8:

People should be able to share a bedroom, if they choose, without the landlord or the municipality peeking through the keyhole. In fact, any related questioning or investigation could lead to human rights complaints.⁵⁴

4.2 Minimum separation distances (MSDs)

MSDs can adversely affect *Code*-protected groups by restricting housing options. As noted in *Room for everyone: Human rights and rental housing licensing*, the OHRC has intervened in cases with respect to minimum separation distances. One of these cases – before the Human Rights Tribunal of Ontario – was launched by the Dream Team, an organization that advocates for supportive housing for people with disabilities. In this case, the Dream Team challenged the

⁵³ Letter from the City's counsel to the OHRC, September 28, 2012.

⁵⁴ For a related discussion of how limitations on the number of occupants per room or bedroom can impact human rights, see *Policy on human rights and rental housing*, OHRC, Part V, section 4.3.3.

City of Toronto's minimum separation distance requirements for group homes for people with disabilities. An expert, hired by the City of Toronto to examine issues arising from the City's imposition of minimum separation distances on group homes, said in his report that he could not find a "sound, accepted planning rationale" for those minimum separation distances and recommended that they be removed.⁵⁵

Documents provided by the City of Waterloo show that students and older persons could be particularly affected by any decrease in the availability of lodging houses, and that minimum separation distances can act to decrease the availability of lodging houses, particularly in neighbourhoods near universities.⁵⁶ They also show that increasing the MSD in a way that limits lodging houses could increase rental prices, create an incentive for illegal lodging houses, and encourage marginal units to stay on the market because of lack of choice for students.⁵⁷

In 2002,⁵⁸ the City recommended creating apartment buildings to alleviate the need for lodging houses. Two years later, the City increased the MSD for the most common type of lodging houses⁵⁹ to 150 metres, which significantly reduced the availability of lodging houses.

The City says that:

Between 2002 and 2010, 2,386 new apartment and triplex units were constructed in Waterloo. Since then, approximately 1,800 apartment units (representing approximately 5,600 bedrooms) have been proposed and are either under construction or are proceeding through the Site Plan or Building Permit stage. Many of these units contain 4 or 5 bedrooms. None of them are subject to the Rental Housing Licensing By-law.⁶⁰

⁵⁵ Sandeep K. Agrawal, *Opinion on the Provisions of Group Homes in the City-wide Zoning By-Law of the City of Toronto*, at pages 3 and 28, released February 28, 2013 by the City of Toronto, as a supplementary report to the *Planning and Growth Management Committee, in Final Report on the City-wide Zoning By-law: Supplementary Report on Human Rights Challenge to Group Home Zoning Regulations*, PG13020.

⁵⁶ "Rooming, boarding and lodging houses (RBL's) are an important form of housing in the City of Waterloo. ... In Waterloo, the off-campus university student population (estimated at 10,300 is the single largest source of demand for this type of housing. Another significant source is the City's seniors population." *Rooming, Boarding, Lodging House Definition Review* 92-16, March 13, 1992, page 1.

Regarding how MSDs are "the prime constraint to the development of more lodging houses...", see *Student Accommodation Study Discussion Paper DS04-16*, March 3, 2004, page 30.

⁵⁷ *Height and Density Policy Study Discussion Paper DS-02-38*, 2002, page 22.

⁵⁸ *Height and Density Policy Study Discussion Paper DS-02-38*, 2002, page 22.

⁵⁹ Class 2 lodging houses: non-owner occupied with 4-5 occupants, which at that time made up more than 80% of lodging houses. See *Student Accommodation Study Discussion Paper DS04-16*, March 3, 2004, page 14.

⁶⁰ Letter from the City's counsel to the OHRC, September 28, 2012.

Even if apartment buildings make up rental spaces lost to MSD requirements, they may not provide equivalent types of accommodation, at an equivalent cost. A City document shows virtually equal student preferences for apartments (47.8%) vs. houses and/or townhouses (47.3%).⁶¹ A group of students told the City that they preferred non-apartment housing and that the bylaw would result in less choice.⁶²

Under the City's old lodging house regime, "residential units" that were "single housekeeping units" could be exempt from MSD requirements. This is no longer the case. As a result, some lodging houses that were operating legally in the past regardless of MSD requirements, could now fall subject to those requirements and have to stop operating (or reduce the number of renters to three⁶³ to be exempted from the MSD requirements).

One landlord said:

The city is using [the] bylaw as a clever way around the ruling of the Terrance Good case. They are forcing us to turn our "residential dwellings" into "lodging houses" because we need a licence under the municipal act.

⁶¹ *Height and Density Policy Study Discussion Paper DS-02-38, 2002, page10, citing a "winter" 2002 study by a University of Waterloo graduate planning student.*

⁶² Letter to City from a group of students, undated; Email to City, January 26, 2011.

⁶³ There is some lack of clarity around applying the MSD to properties that are lodging houses for the purposes of the zoning bylaw (because they have more than three people) but that are not lodging houses for the purposes of the licensing bylaw (because they have four or fewer bedrooms). For example:

- One landlord told us that the minimum separation distance requirement limited him to renting out **four rental bedrooms**. (Emphasis added)
- One landlord told us: "I have current residential dwellings with more than **4 tenants**. Due to MDS they will not be able to get a licence..." (Emphasis added)
- Another landlord said: "My property will be grandfathered into the bylaw as I will be eligible for a class D so I will not need to reduce the bedroom count immediately. However, in the future, if I lose the class D licence due to the strict reapplication deadlines, I will be forced to reduce the number of bedrooms as it will be impossible for a renewal with greater than **4 bedrooms** in my zoning classification." (Emphasis added)
- Another landlord shared her confusion: "...I can only obtain a class A licence with a **max number of occupants of 3**, regardless of the fact that my house has 5 bedrooms and can comfortably accommodate a large family or group of friends. I'm not sure what exactly would make it a lodging house as I believed the new system would replace the old system which granted lodging house licences. Now they are 'class' licences. In any case, with the licence I can possibly be granted (the class A for 3 bedrooms since [Minimum] Distance Separation requirement applies), I will have to inquire of my tenants before renting to them, exactly how they plan on using the house, and will only be able to advertise the house accordingly. I fear the city will fine me if I don't." (Emphasis added).

Another landlord expressed concerns about the impact of MSDs:

All my properties are less than 150 metres from a licensed lodging house. Therefore I am only allowed to rent 3 bedrooms in my properties. One is a grandfathered legal non-conforming duplex, so it is legally divided into 2 units, one with 2 bedrooms and one with 3 bedrooms. The other 2 units have potentially 4 bedrooms in one and 5 bedrooms in the other, but I am only allowed to rent 3 bedrooms in each.

Another landlord told the OHRC that, in some areas, MSDs would potentially eliminate significant numbers of rental housing units, or reduce the available rooms in units, and described the impact on two 4-bedroom units:

I have a legal duplex with a limit of 3 and 3 students because of the MDS. [Previously] I was able to rent to 4 and 4 as the students came as a household. This will be reduced by the new 150 meters MDS in the licensing bylaw... even though my bedroom sizes are above the requirement for two people, and so is the 40% bedroom to floor space ratio.

This landlord said that, because of the limitation on the number of rooms, the rent per person would increase:

... the rent is \$495.00 plus all utilities. Next year [in 2013] it will be \$660.00 plus utilities per room with three bedrooms in the upstairs unit and the same downstairs. That still doesn't include the cost of the licence, which for this building is at least \$1600.00 and this will be added to next [year's] rent. This is all only because of the by law.

This landlord confirmed recently that the City sent a letter saying that two tenants have to move out.

The City commented that the MSDs have been in place (with some revisions) for almost 20 years, and that:

The MDS provisions of the Zoning By-law already applied to rental units housing more than three persons. The effect of the Rental Housing By-law is to also pull in any rental housing of five or more bedrooms within certain zones. However, given that there would be an insignificant number of rental houses in these zones that have five bedrooms but are rented to three or less tenants, the City does not believe that the Rental Housing Licensing By-law has prevented any previously lawful rental property from operating because of MDS restrictions.⁶⁴

The City went on to say:

Not one otherwise lawfully operated lodging house has been shut down by the City due to MDS restrictions – ever.⁶⁵

⁶⁴ Letter from the City's counsel to the OHRC, September 28, 2012.

⁶⁵ Letter from the City's counsel to the OHRC, September 28, 2012.

While MSDs have been around for 20 years, that does not make them *Code* compliant. Also, the City's reasoning does not reflect the fact that "single housekeeping units" are no longer exempt. As a result, some rental properties that were operating legally (without being subject to MSDs) may now fall under the separation requirements.

There is no justification for requiring non-apartment, non-high-rise rental units to be located a certain distance apart from one another. Arbitrary minimum separation distances that are applied to rented accommodations but not to owned homes of a similar size and type can contravene the *Code*. They are about regulating people, and often flow from stereotypes associated with renters. As noted in *Room for everyone: Human rights in rental housing licensing*, instead of planning for inclusive neighbourhoods, minimum separation distances can limit the sites available for development and restrict the number of sites that are close to services, hurting people who are in need of housing.⁶⁶

4.3 Different systems based on number of bedrooms

The bylaw stipulates that (except for some grandparenting exemptions) properties with more than four⁶⁷ bedrooms are not eligible for Class "A" or "B" licences, but instead must apply for a class "C" lodging house licence.

The distinction between class "A", "B" and "C" does not appear to have any meaningful impact on minimum separation distances; they are governed by the zoning bylaws' threshold of "more than three people."⁶⁸

Even though the class "A", "B" and "C" distinctions do not appear to create disadvantages with respect to minimum separation distances, other disadvantages may arise.

For example, in a class "C" lodging house, all doors must be capable of being locked and the owner must have written leases with all people over age 16.

These requirements could disproportionately affect *Code*-protected groups. For example, if a couple choose to live in a class "C" lodging house, each of them must enter into a lease with the landlord. Families who live in a class "C" lodging

⁶⁶ *Room for everyone: Human rights and rental housing licensing*, OHRC, recommendation 9.

⁶⁷ In its 2010 draft bylaw, the City considered imposing a limitation of three bedrooms for Class "A" and "B" rental properties, based on data showing that the average "family" size in Waterloo, and median number of bedrooms per residential unit, is three. The OHRC raised concerns that averages and medians can blur real demographic and social distinctions, and affect people based on a number of *Code* grounds. In response to public input, the City raised the limit to four bedrooms before finalizing the bylaw.

⁶⁸ It is possible that the licensing bylaw could broaden the zoning bylaw's definition of lodging houses, such that 5+ bedroom units that house three or fewer people are required to abide by minimum separation distances – but that seems to be a merely academic question as presumably that type of property is not at all common.

house may face practical challenges with putting their children into rooms that are capable of being locked.

Based on the information currently before it, the OHRC cannot conclude that the City's practice of applying stricter requirements to units with five or more bedrooms disadvantages people because of their association with a *Code* ground. However, this practice may be arbitrary.⁶⁹ As noted in *Room for everyone: Human rights in rental housing* recommendation 6, arbitrary bedroom limitations can reduce the availability of viable housing for *Code*-protected groups and should be avoided.

4.4 Gross floor area requirements

As noted in *Room for everyone: Human rights and rental housing licensing*, recommendation 7, floor area requirements that are more stringent than Building Code regulations could contravene the *Code*.

The bylaw's ratio of bedroom space to overall floor area appears to impose a requirement that does not exist in the Building Code.

A landlord pointed out the inconsistency of this requirement being applied to some rental housing and not others:

... in one of the advertised floor plan of a highrise apartment which is exempted, the bedroom areas are 70% of the gross unit space. During the bylaw "town house" consultation there was no explanation of how this 40% rule came about.

Since grandparenting was available in some cases with respect to gross floor area requirements, the OHRC understands that the impact of this requirement in the short term has been minimized. On the information before it, the OHRC cannot conclude that the requirement has disadvantaged people because of their association with a *Code* ground. The OHRC notes, however, that the situation may evolve given that grandparenting is no longer available. The OHRC also notes the City appears to be applying this requirement to low-rise rental housing, but not to high-rise rentals or to owned housing. This may call into question any health and safety rationale for the requirement.

⁶⁹ The City stated "The data collected by the City supported limiting Class A and Class B rental units to three bedrooms. In response to public input, that was increased to four bedrooms." (Letter from City Counsel to the OHRC, September 28, 2012.) While this indicates a thoughtful approach, the OHRC is not aware of information before the City which showed that 5+ bedroom houses are categorically different (and require categorically different regulation) than houses with four or fewer bedrooms.

4.5 Bylaw-related costs

The OHRC addresses bylaw-related costs in *Room for everyone: Human rights and rental housing licensing*. Specifically, it underlines that there must be a reasonable connection between the cost of the service and the amount charged, and it urges municipalities to be mindful that fees associated with licensing, if passed on to renters, might drive up the price of housing.⁷⁰

Landlord survey respondents indicated that, because of the bylaw, rents per person or per room would be going up between \$10 and \$100/month, with most in the \$20 – \$50 range. They described rent-per-unit increases ranging from \$18 to \$200/month, with most in the \$30 – \$80 range.

A landlord recently told the OHRC that the bylaw-related fees, permit and inspection cost about \$1,200, and he raised the new tenant's rent by \$100 a month to cover these costs.

According to a 2011 report, the City indicated that the bylaw would result in a \$12 – \$20 cost per renter.⁷¹

The City maintained this position in correspondence to the OHRC in 2012. It underlined that these figures assume that full costs are passed along to the tenants. The City went on to state:

It is the City's best information that rents have remained stable across the municipality, that the vacancy rate has slightly increased, and that the number of rental units on the market has significantly increased since the Rental Housing Licensing By-law was passed in 2011.⁷²

The City suggested tenants might prefer to pay slightly higher rents if this would result in safer rental units that comply with the Building Code and the Fire Code. The City has also expressed a concern that some landlords may be taking advantage of the bylaw to justify rent increases in excess of actual bylaw-related costs.⁷³

Some tenants told the OHRC that they had not experienced rent increases recently; other tenants described rent increases associated with the bylaw.

While tenants have reported financial impacts relating to the bylaw, municipalities are allowed to charge fees for licensing, as long as they are proportional to the expenses of the program. The City provided data to the OHRC to show the

⁷⁰ *Room for everyone: Human rights and rental housing licensing*, OHRC, recommendation 13.

⁷¹ *Rental Housing By-law and Program Report* No. PS-BL2011-016, May 4, 2011, page 6. The City went on to state: "assuming the monthly fee of a 3-bedroom unit is \$450 per bedroom and if the landlord chooses to apply the added cost to the rent the licence fee increase would represent approximately a 2.5% to 5% increase."

⁷² Letter from the City's counsel to the OHRC, September 28, 2012.

⁷³ Letter from the City's counsel to the OHRC, September 28, 2012.

connection between licensing fees and the costs of services provided through the licensing program. In other words, the City appears to have established that its fees are proportional to services offered.⁷⁴

Information before the OHRC does not establish that the City's licensing fees discriminate against people because of their association with a Code ground.

4.6 Conclusion

"In some ways I think that the bylaw is good because it will give some basic standards for the conditions that houses must be in before they can be rented. I worry that it will increase rental prices and make less people inclined to buy houses and rent them to students in the end reducing the amount of selection and quality of housing available. It is already challenging in the Fall to find accommodations around the university of Waterloo and this will likely make it harder. I also feel like this bylaw is in favour of the larger apartment style student housing which is not aesthetically pleasing and also is not exactly the type of place where many student[s] wish to live."

– A Waterloo student survey respondent

Much like this student, the OHRC concludes that there are positive and negative aspects of the rental housing licensing bylaw. The OHRC applauds the City for working towards improved safety conditions for renters, and supports bylaw provisions that are needed to ensure that safety. All housing is subject to health and safety standards such as the Building Code and Fire Code. The OHRC agrees that effectively enforcing these standards enhances tenant safety.

⁷⁴ The City developed a cost recovery model over a multi-year period – from the outset of the bylaw to 2016. This model appears to have been based on an understanding that the City would experience losses in the first years of the program but profits in later years, amounting to overall cost recovery by 2016 (Report PS-BL2011-007, page 77). The OHRC recently learned that the City's revenue in the first year of the program was higher than expected. On May 15, 2013 the City commented:

The City is obviously pleased that far more landlords have applied for licences in the first year of the rental housing licencing program than it had estimated, resulting in increased revenue – the rental housing program has had more support and voluntary participation than expected when the City made its initial projections. However, the increased number of licence holders at this early stage will also increase the projected program costs – for example, one additional person has already been hired, and consideration is being given to further staffing increases. To a large extent, this "surplus" is the result of the fact that these extra costs lag behind receipt of revenue (because annual licence fees are due up front). As such, the City recovered its costs and was at a surplus (on a cash-flow basis) for the period ending one year after the by-law came into force. Over the initial five year period, the City still expects be at a net cost recovery position, with no surplus. ... [A]t the conclusion of the second year, if the City is still at a net surplus for the program, it will be conducting a review of its licencing fees. ... [A]part from any human rights considerations, the City is legally obligated not to use licence fees as a source of revenue exceeding program costs.

At the same time, certain other bylaw requirements are not justified.

Based on information before it, the OHRC has concluded that the bylaw's per-person floor area requirements are in some cases discriminatory and are not required to meet a safety standard. They should be eliminated.

The OHRC finds that there is no justification for the minimum separation distances imposed by the City of Waterloo. Arbitrary minimum separation distances, that are applied to rented accommodations but not to similar owned homes, are about regulating people, and often flow from stereotypes associated with renters. Arbitrary separation distances can contravene the *Human Rights Code*, and should be eliminated.

The OHRC is concerned that there appears to be an interest on the part of the municipality in redirecting renters – especially student renters⁷⁵ – into apartments or other high-density housing and out of low-rise areas. As noted in *Room for everyone: Human rights and rental housing licensing*, recommendation 5:

In accordance with the 2005 *Provincial Policy Statement*,⁷⁶ municipalities should provide for an appropriate range of housing types and densities required to meet projected requirements of current and future residents by, among other things, establishing and implementing minimum targets for providing housing that is affordable to low and moderate income households.

People do not have the right to choose their neighbours. Where planning decisions are made based on community opposition, or where those decisions "people zone," those decisions could be found to be discriminatory.

The OHRC urges the City to monitor the housing market, to make sure that the rental housing licensing bylaw does not arbitrarily limit access to low-cost rental housing, and that tenants, including students, are not experiencing displacement or difficulty finding housing because of their connection to a *Code* ground.

It is also essential that the City continue to educate people about the bylaw and related human rights principles to minimize the chances that *Code*-protected people will face displacement or difficulty finding housing, and to clear up any confusion about the licensing regime and the interaction between the different applicable bylaws.

⁷⁵ As noted in *Room for everyone: Human rights and rental housing licensing*, students are protected by the *Code* where they experience discrimination because of their association with *Code* grounds such as age, marital status or receipt of public assistance.

⁷⁶ *Provincial Policy Statement*, Government of Ontario, 2005, section 1.4 (Housing).

5. Recommendations

5.1 Per-person floor area requirements

The OHRC recommends that the City immediately eliminate per-person floor area requirements from its bylaw.

5.2 Minimum separation distances

There is a general trend towards removing MSDs from bylaws and official plans, and more than one bylaw has faced a legal challenge because it includes MSDs.⁷⁷

In communications with the OHRC, the City stated:

With respect to the planning purposes behind the classification and zoning of lodging houses, we again point out that these provisions go back almost twenty years, and that the City is right now undertaking a review of its Zoning By-laws, including the lodging house provisions. The City of Waterloo has changed significantly over the last few decades, and what is accepted as good and conventional planning practice has significantly developed over the last few decades, as has provincial policy and legislation. It would be premature to speculate how this review will ultimately affect the zoning (and definition) of lodging houses in the City of Waterloo, or what planning purposes will inform the lodging house zoning regime which will be implemented. That said, we again note that the new Official Plan does not contain MDS provisions.⁷⁸

On May 17, 2013, the City stated:

... the City cannot lawfully make any commitment at this time to amend its Zoning By-law to delete the existing MDS provisions. There are notice and procedural requirements that must be complied with prior to considering and passing a Zoning By-law. It would be improper and unlawful for the City to commit to any Zoning By-law or amendment without having taken such steps. As such, at this time we can only point you to the steps that the City has taken, including the passage of a new Official Plan which does not contain the MDS provisions that concern the Commission.

...

⁷⁷ The City of Guelph's zoning bylaw (2010) 19076, which imposed minimum separation distances on rental housing, was challenged at the Ontario Municipal Board. The City rescinded its bylaw before the case proceeded to a hearing. The City of Hamilton's refusal to enact a proposed amendment to zoning bylaw 6593 (which imposes minimum separation distances on group homes), is currently being challenged at the Ontario Municipal Board. The City of Toronto's pre-amalgamation zoning bylaws (currently in force), and city-wide zoning bylaw (currently in draft), which impose minimum separation distances on group homes and residential care homes and other uses, are currently being challenged at the Human Rights Tribunal of Ontario.

⁷⁸ Letter from the City's counsel to the OHRC, November 16, 2012.

City staff can commit to considering both the *Human Rights Code* and the Commission's comments in the course of preparing the new draft Zoning By-law. The Commission is encouraged to weigh in directly with the City (Development Services) if it wishes to make further comments on MDS restrictions or any other planning issues that would potentially impact on the new draft Zoning By-law that is currently being prepared. Legally, no further commitment can be made by the City at this time regarding the provisions of the City's zoning By-laws.

We can confirm that the City's comprehensive zoning review is already underway – it will look at all aspects of zoning for the entire City, with the principal goal of bringing the City's Zoning By-law into conformity with the new Official Plan. This process is regulated under the *Planning Act*, and public engagement is a key aspect of the zoning review. It is anticipated that this public engagement will occur in many forms, including informal public meetings, open houses, workshops, formal public meetings and various types of media. Although it will take some time to undertake this process, particularly given the numerous stakeholders and the City's desire to meaningfully engage these stakeholders, the target for completion of the new comprehensive Zoning By-law is sometime in 2014.

There is a very real possibility that the City's application of MSDs to certain rental units with more than three occupants will disadvantage people in Waterloo because of their association with a *Code* ground. The OHRC recommends that these MSDs be removed.

While the City expects to develop a new zoning bylaw sometime in 2014, and while that new zoning bylaw may not include the MSDs in question, the City remains vulnerable to a HRTO Application with respect to MSD provisions, until they are removed. In the meantime, the City may consider ways to mitigate the impact of existing MSD provisions. For example:

- The City could prioritize and expedite the comprehensive zoning review process
- The City could consider ways that MSD-related amendments can be considered and approved separate from (and perhaps prior to) other amendments
- The City could investigate whether it can limit the impact of MSD provisions, until such time as they can be removed
- City staff could make strong recommendations to those involved in the process, to remove the MSDs.

5.3 Monitoring

In communications with the OHRC, the City stated:

City staff are still developing an appropriate monitoring program. Given how recently the Rental Housing Licensing By-law came into force, and the fact that it is still in the process of being implemented, it is premature to commit to any particular formal monitoring regime. To date, the City has contacted universities, property managers, real estate professionals and student organizations, plus it hears directly from landlords, tenants and other members of the public in the ordinary course of administering the licensing program and the City's other by-laws. Based on this anecdotal input from the community, the City is as confident as possible – given the short passage of time since implementing the by-law – that the licensing program is not responsible for increased difficulty in finding rental units. The City will continue to monitor the situation.

The City went on to say:

The City will consider whether formal data gathering would be appropriate once the by-law has been in place for a sufficient period of time, and based on a consideration of its experience in the day-to-day course of administering the by-law and running the City.⁷⁹

The OHRC recommends that the City implement a monitoring program that tracks the impact of its licensing bylaw on *Code*-protected groups on an ongoing basis over a five-year period, consistent with the principles laid out in the OHRC publication *Count Me In! Collecting human rights-based data* and *Room for everyone: Human rights and rental housing licensing*, recommendation 12. The OHRC would be happy to help the City in this endeavour.

5.4 Enforcement

The City's "By-law Enforcement and Property Standards Procedure" states on page 7:

When making a decision related to the revocation or suspension of a Residential Rental Licensing Business the Director shall consider:

1. Imposing terms or conditions on any such licence revocation or suspension that would minimize the adverse impact on any Tenant, including the possibility of providing a reasonable time period before the licence revocation or suspension takes place to permit Tenants to find new housing or to seek relief from the Court or before the Ontario Landlord Tenant Board ...

⁷⁹ Letter from the City's counsel to the OHRC, November 16, 2012.

The OHRC recommends that the City state in the Procedure that the landlord, not the tenant, will be the focus of any enforcement action.

The OHRC further recommends that tenants of a rental unit be informed of any health and safety or other licensing violation as soon as the municipality is aware of it.

5.5 Education

It is essential that the City continue to educate people about the bylaw to ensure that it is understood and applied fairly and consistently in ways that minimize the chances of discriminatory impact.

The OHRC understands that the City has a "FAQ" section on its website. The OHRC recommends that the City ensure that this section addresses common points of concern and confusion, and refers to the *Code*. The OHRC also recommends that it mails the document in brochure form to "all tenants" of registered rental addresses.

The OHRC wishes to thank all of the people who took part in the inquiry, particularly the tenants who shared their opinions and experiences. The OHRC also thanks the staff and officials at the City of Waterloo for their cooperation. The OHRC remains available to assist the City in its ongoing monitoring and public education efforts related to the bylaw and its relationship to the Ontario *Human Rights Code*.

6. Appendix

As noted in the report, the OHRC conducted surveys as part of this inquiry. After the OHRC published its surveys, the City of Waterloo raised a concern that landlord surveys stated that the rental housing licensing bylaw imposes a 150m separation distance on lodging houses. The City clarified that the separation distance does not apply to all lodging houses in the city, and also that the City's zoning bylaw (and not the rental housing licensing bylaw) imposes separation distances.

The City also raised concerns about a statement on landlord surveys that the bylaw imposes "certain caps on the number of renters in a rental unit that is not a lodging house."

The OHRC followed up with landlords to clarify the minimum separation distance requirement, and to clarify that by stating that the bylaw imposes "certain caps on the number of renters in a rental unit that is not a lodging house," the OHRC means that "the rental housing bylaw creates certain caps on the number of renters in a rental unit that is not a lodging house because [i] bedrooms that are

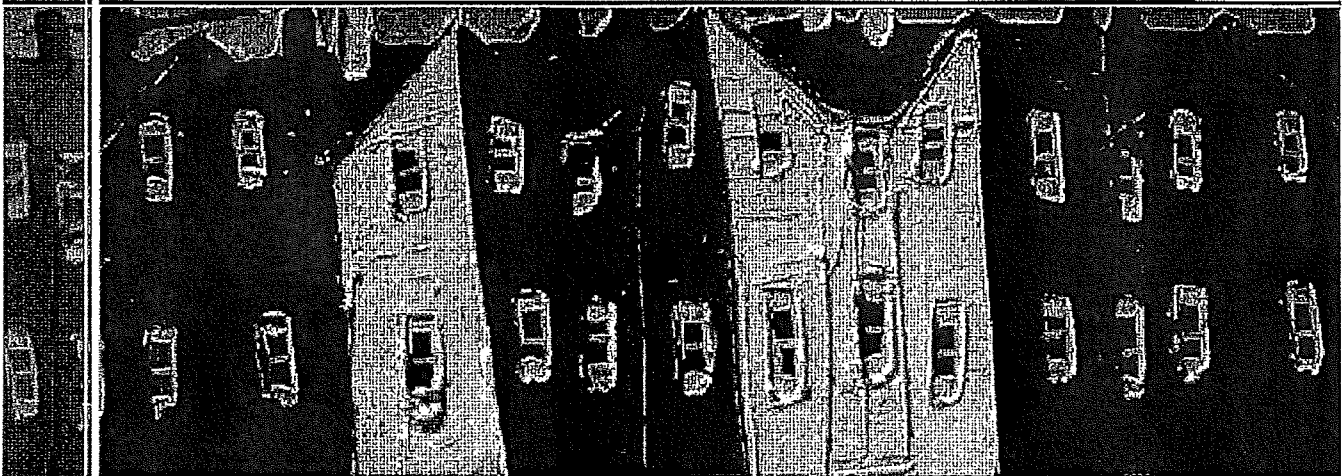
for rent must have a minimum of 7 m² per occupant (exceeding Building Code requirements), and [ii] there must be no more than 4 bedrooms in total.”

The OHRC has quoted in this report only the people it was able to reach with these clarifications and where applicable has included the additional comments they provided in the follow-up communication.

The City also raised a concern that tenant and organization surveys stated that the rental housing licensing bylaw imposes a 150m separation distance on lodging houses. The OHRC has not quoted any tenants or organizations in this report with respect to minimum separation distances. In any case, the OHRC followed up with people quoted in the report to ensure that the clarification did not change any of their answers.

Room for everyone:

Human rights and
rental housing licensing



Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne

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Introduction

Over the past six years, the Ontario Human Rights Commission (OHRC) has monitored and reviewed various municipal approaches to regulating private rental housing. The OHRC's mandate includes protecting the human rights of people who are vulnerable because of their age, receipt of public assistance, disability, family status, and other factors. This mandate applies to rental housing, because so many people who identify with grounds of the Ontario *Human Rights Code* (the *Code*) are renters. Our goal is to make sure that rental housing regulatory practices, even unintentionally, do not create barriers and discrimination in housing for vulnerable people.

In 2011, the OHRC released *In the Zone: Housing, human rights and municipal planning*. The OHRC examined how zoning provisions in municipal bylaws can affect the availability of housing for *Code*-protected groups. This guide is a companion to *In the Zone*, with a focus on licensing.

Room for everyone: Human rights and rental housing licensing addresses how licensing provisions in municipal bylaws may disadvantage groups protected by Ontario's *Human Rights Code*

(the *Code*),¹ gives an overview of human rights responsibilities in licensing rental housing, and makes recommendations to help municipalities protect the human rights of tenants.

Licensing bylaws seek to regulate rental housing by requiring that landlords operate their properties according to certain standards. Licensing bylaws may reasonably contain provisions relating to garbage and snow removal, maintenance, health and safety standards and parking. However, the OHRC is concerned about some other provisions, such as gross floor area requirements for bedrooms and living spaces that go beyond what is required by the *Building Code*, bedroom caps and minimum separation distances. These provisions may reduce the availability and range of rental housing (which is a key element of healthy neighbourhoods), and might contravene the *Code* by having an adverse impact on groups who are protected under the *Code*.

The main focus of this guide is on small-scale rentals. However, rooming or boarding houses are occasionally captured by rental housing licensing bylaws. This is one reason why we include information in this guide on

¹ *Human Rights Code*, R.S.O. 1990, c.H.19, as amended.

minimum separation distances. For more discussion on how Code-protected groups might be affected by zoning bylaws that restrict rooming and boarding houses from operating in certain parts of a municipality, see *In the Zone* (pages 24-25).

Rental housing licensing is a relatively new and evolving concept – and so are ideas on what best practices might be. So, instead of citing “best practices,” this guide includes a series of “promising practices” – to convey that there are many opportunities for municipalities to enhance their work to advance human rights in rental housing.



What the legislation says

Under the *Municipal Act, 2001* and the *City of Toronto Act, 2006*, municipalities have broad powers to pass bylaws (subject to certain limits) on matters such as health, safety and well-being of the municipality, and to protect persons and property.²

Both Acts also give municipalities the specific authority to license, regulate and govern businesses operating within the municipality. This includes the authority to pass licensing bylaws covering the business of renting residential units and operating rooming, lodging or boarding houses/group homes.

With this authority to license also comes a human rights responsibility. The *Code* has primacy – in other words, takes precedence – over the *Municipal Act* and the *City of Toronto Act*, and requires that municipal programs, bylaws and decisions such as licensing consider all members of their communities. The *Code* requires that decisions do not target or have a disproportionate adverse impact on people or groups who identify with *Code* grounds.³

² Before 2007, municipalities could license rental housing only if that housing did not constitute a "residential unit." Among other things, a "residential unit" was defined as being a "single housekeeping unit." The Courts found that a "single housekeeping unit" was one where there was collective decision making about control of the premises (*Good v. The Corporation of the City of Waterloo* (2003), 67 OR (3d) 89 (Ontario Superior Court), aff'd (2004), 72 OR (3d) 719 (Ont. C.A.)) or where there was a use "typical of a single family unit or other similar basic social unit." (*Neighbourhoods of Windfields Limited Partnership v. Death*, [2008] O.J. No. 3298 at paragraph 62, aff'd [2009] O.J. No. 1324 (Ont. C.A.), [2009] S.C.C.A. No. 253 leave to appeal to S.C.C. refused, 33210 (June 15, 2009)).

Due to amendments to the *Municipal Act*, and the creation of the *City of Toronto Act*, both of which came into effect January 1, 2007, the "residential unit" exemption was removed and municipalities were given more power to license rental housing.

³ Municipalities' licensing activities are also subject to the *Charter of Rights and Freedoms*. Under section 32(1) the *Charter* applies to the "legislature and government of each province in respect of all matters within the authority of the legislature of each province." Municipalities are part of the government structure in the province of Ontario, and are therefore subject to the *Charter*.



The Ontario *Human Rights Code*

The *Code* prohibits actions that discriminate against people based on a protected ground in a protected social area.

Protected grounds are:

- ▶ Age
- ▶ Ancestry, colour, race
- ▶ Citizenship
- ▶ Ethnic origin
- ▶ Place of origin
- ▶ Creed
- ▶ Disability
- ▶ Family status
- ▶ Marital status (including single status)⁴

- ▶ Gender identity, gender expression
- ▶ Receipt of public assistance (in housing only)
- ▶ Record of offences (in employment only)
- ▶ Sex (including pregnancy and breastfeeding)
- ▶ Sexual orientation.

Protected social areas are:

- ▶ Accommodation (housing)
- ▶ Contracts
- ▶ Employment
- ▶ Services
- ▶ Vocational associations (unions).

⁴ In *Swaenepoel v. Henry* (1985), 6 C.H.R.R. D/3045 (Man. Bd. Adj.), the Manitoba human rights tribunal (called the "Board of Adjudication") found that three single women, residing together, were discriminated against by the respondents because of the respondents' assumptions about the characteristics of single people of the same sex, who did not conform to the nuclear family model.

In *Gurman v. Greenleaf Meadows Investment Ltd.* (1982), C.H.R.R. D/808 (Man. Bd. Adj.) the same Manitoba tribunal found that the respondent discriminated against two sisters and a brother, because they were a group of single adults of mixed sexes.

In *Wry v. Cavan Realty(C.R.) Inc.* (1989), 10 C.H.R.R. D/5951 (B.C.C.H.R.), the British Columbia Human Rights Tribunal found that a single man was discriminated against because the respondent only wished to rent to families and married couples. The tribunal found that there was discrimination based on sex and marital status.

In *Vander Schaaf v. M & R Property Management Ltd.* (2000), 38 C.H.R.R. D/251 (Ont. Bd. Inq.) the Ontario Board of Inquiry (the precursor to the Human Rights Tribunal of Ontario) found that a landlord who preferred married couples had discriminated based on marital status by not renting to two single women who wanted to be roommates.

See, however, *Simard v. Nipissing Condominium Corporation No. 4*, 2011 HRTO 1554 and *Nipissing Condominium Corporation No. 4 v. Kilfoyl*, 2010 ONCA 217.

Rental housing bylaws discriminate if they cause someone to be disadvantaged in a protected social area – like housing – because of the person's association with a protected ground.

If a bylaw is found to be discriminatory, a municipality would have to show that the absence or variation of the bylaw would cause them “undue hardship” in terms of health and safety or cost ramifications.

In some cases, the absence of the bylaw will not cause “undue hardship” because less discriminatory alternatives to the bylaw exist, that would meet the same fundamental goals. For example, if a municipality argues that its bylaw is required to meet a certain standard for preventing fires, but existing *Fire Code* provisions apply a lesser standard (which causes less disadvantage to *Code-protected groups*) then it is arguable that the absence of the bylaw does not cause the municipality undue hardship.

Licensing bylaws are a *Code-protected* “social area”

The OHRC looks at rental housing licensing bylaws from the perspective of two social areas under the *Code*: services and housing.

Services

Municipalities provide a service to their residents through residential rental licensing bylaws. For example, a rental housing licensing bylaw may provide renters (and other residents in the area) with the comfort of knowing that the landlord has established a maintenance and snow removal plan, or has met health and safety standards, for his or her house.

Housing

The *Code* prohibits indirect discrimination. Section 9 provides:

No person shall infringe or do, directly or indirectly, anything that infringes a right under this Part.

Although a municipality is not a landlord or housing provider, it has a responsibility to ensure that it does not indirectly discriminate with respect to the social area of housing when it licenses rental housing through a bylaw.

Licensing bylaws can disadvantage *Code-protected groups*

The OHRC conducted a consultation on human rights and rental housing in 2007. It reported on this consultation in *Right at Home: Report on the consultation on human rights and rental housing in*

Ontario, and the consultation helped to form the OHRC's *Policy on human rights and rental housing*.

During the consultation, the OHRC heard that certain *Code*-protected groups rely on rental housing, and can be disadvantaged by measures that limit it. Examples of groups that may be affected include:

- ▶ Aboriginal people (ancestry)
- ▶ Racialized groups (race, colour, ethnic origin)
- ▶ Newcomers (place of origin, citizenship, ancestry)
- ▶ Lone parents (family status and marital status)
- ▶ Seniors (age, sometimes disability or receipt of public assistance)
- ▶ Large families (family status, sometimes creed, ancestry or ethnic origin).⁵

During the consultation and also through its recent inquiries into rental housing licensing in Waterloo and North Bay, the OHRC also heard that groups not as obviously connected to *Code* grounds – such as students and

low-income individuals – might be disadvantaged by measures that limit affordable rental housing.

Sometimes the link to the *Code* is clear. For example, if a student is told that they cannot rent a unit because they are single, then they have experienced a disadvantage (denial of a rental opportunity) because of their association with a *Code* ground (marital status). But what if someone appears to have experienced a disadvantage because of their student status, or because of their low-income status?

If student status, or low-income status, are “one of the many identifying features” of being a member of a particular *Code* group, or are “inextricably bound up together” with being a member of a *Code* group, then student status or low-income status are a *proxy* for that *Code* group. In that case, there will be a link between any adverse impacts experienced by students or low-income groups, and a *Code* ground. For example, if student status is significantly or overwhelmingly associated with being young,

⁵ Family size and composition can be strongly influenced by a number of *Code* grounds or combinations of grounds, such as ethnic origin, ancestry, creed, race and/or place of origin. As a result, discrimination based on family size can be found to be discrimination based on a number of *Code* grounds.

For example, in a 2003 case called *Cunanan v. Boolean Development Ltd.*, 2003 HRTO 17, the Human Rights Tribunal of Ontario found that an apartment owner discriminated against a mother and three teenage sons, when he would not rent them a three-bedroom apartment because of his policy of applying a “Canadian standard” of “ideal family” numbers per bedroom size.

See also *Fakhoury v. Las Brisas Ltd.* (1987), 8 C.H.R.R. D/4028 (Ont. Bd. Inq.).

then actions that disadvantage students will disadvantage people protected by the Code ground of age.⁶

Students

Though students may be more likely than some other community residents to move away after a few years, they are still residents of a community. Students contribute greatly to the economic and social life in their communities. They are as entitled to housing as any other resident.

Student status could be a proxy for age, because the two characteristics appear to be inextricably bound up together. In general, while students may range in age, an overwhelming majority of

students are young people. Data from Statistics Canada shows that in 2010, 49% of university graduates were between the ages of 15 and 24, and over 76% of university graduates were under age 30.⁷ The data also shows that over 63% of college graduates were under the age of 24, and over 76% were under age 30.⁸

Large percentages of young people are students. For example, 79% of 18-20 year-olds are students.⁹ In communities where students are commonly referred to as "young people," "kids" or other age-related terms, the association between student status and the Code ground of age is even clearer.

⁶ In a case called *Espinoza v. Coldmatic Refrigeration of Canada Inc.* (1995), 29 C.H.R.R. D/35 (Ont. Bd. Inq.) (appeal to Ontario Court of Justice denied), a man reported being ridiculed and treated differently in the workplace for his use of the Spanish language. The company argued that there cannot be discrimination based on language, because it is not a protected ground. The Tribunal found that:

In my view, language as a protected ground is not the issue. To the extent that language can be incorporated in the protected ground of "ethnic origin" or "place of origin," it can be addressed, not as a sub-category, but as one of many identifying features of "ethnicity."

In a recent case called *Oxley v. Vaughan (City)*, 2012 HRTO 1937, the Tribunal identified language as a proxy, and food as a potential proxy, for Code grounds such as place of origin.

In another recent case called *Addal v. Toronto (City)*, 2012 HRTO 2252, the Tribunal stated:

...there are circumstances which are so inextricably bound up with a prohibited ground that they made [sic] be said to be a proxy for that ground. In pregnancy cases it is not a defence to an allegation of sex discrimination that a woman was denied benefits on the basis of pregnancy. Pregnancy and sex are so inextricably bound up together that denying a service to a woman because of pregnancy is synonymous with denying a service on the basis of sex.

In that case, the Tribunal went on to find that the man's status as a taxi owner was not so inextricably bound up with his race, colour, ethnic origin and place of origin that any disadvantage he experienced as a taxi driver was synonymous with disadvantage based on those personal characteristics.

⁷ *University graduates by age group, 1992-2010*. Statistics Canada, Postsecondary Student Information System (PSIS).

⁸ *College graduates by age group, 1992-2010*. Statistics Canada, Postsecondary Student Information System (PSIS).

⁹ *Participation, Graduation and Dropout Rates*, Statistics Canada, www.statcan.gc.ca/pub/81-595-m/2008070/6000003-eng.htm.

Student status may be a proxy for single status. A significant proportion of single people are students. Forty-four percent of single people in Canada are between the ages of 15 and 30 – and as noted above, 76% of college and university students are under age 30.¹⁰ The link between student status and single status is more clear in communities where students are commonly seen as being incompatible with a “family lifestyle.”

Student status may also be a proxy for receipt of public assistance. According to a Statistics Canada study, approximately 34% of post-secondary students in Canada receive a Canada Student Loan.¹¹ OSAP is essentially a combination of Canada and Ontario Student Loans, so 34% is a very rough approximation of Ontario students receiving social assistance. These numbers do not, of course, take into account students receiving other types of social assistance, such as Ontario Disability Support Program (ODSP) benefits.

If student status is a proxy for age, marital status or receipt of public assistance, elements of the bylaw that disadvantage students because of their student status will be discriminatory and contrary to the *Code*.¹²

Low-income groups

Low income or socioeconomic status is not a protected ground under the *Code*.¹³ However, it directly connects to the ground of receipt of public assistance.

In its work on housing, the OHRC has repeatedly heard that people who identify with certain *Code* grounds or combinations of grounds are more likely to be tenants, and are more likely to experience poverty or to have lower average incomes than the general population.¹⁴ The *Code* may be found to apply when low income is connected to grounds such as age, ancestry, disability, ethnic origin, family status, gender identity, place of origin, race, or being in receipt of public assistance.

¹⁰ Statistics Canada, Age distribution of college and university students, 1992 and 2007.

See also www.globalnews.ca/single+in+the+city/6442719179/story.html.

¹¹ *Canada Student Loans Program, Annual Report, 2010-2011*.

¹² While similar arguments have been raised (see, for example, *Allen v. Canada (Canadian Human Rights Commission)* [1992] F.C.J. No. 934, *Wong v. University of Toronto*, [1989] O.J. No. 979, and *London Property Management Assn v. London (City)*, [2011] O.J. No. 4519), the OHRC is not aware of a decision which establishes that student status is a proxy for a *Code* ground.

¹³ See, for example, *Sugarman v. Sugarman*, 2010 HRTO 1049.

¹⁴ See the OHRC's *Policy on human rights and rental housing*, 2009; *Consultation paper: Human rights and rental housing in Ontario*, 2007; *Right at Home: Report of the consultation on human rights and rental housing in Ontario*, 2008; *In the zone: Housing, human rights and municipal planning*, 2012.

For example, in *Kearney v. Bramalea Ltd.*¹⁵ the Ontario Human Rights Board of Inquiry found that:

[Expert witness] Dr. Ornstein's extensive analysis of the census and other surveys is clear evidence that income criteria [requiring that individuals meet a rent-to-income ratio in order to be eligible to rent a unit] differentially affect groups protected by the *Code* – groups defined on the basis of sex, marital and family status, age, citizenship, race, immigration status, place of origin, and being in receipt of public assistance. The result is to significantly restrict the housing choice of protected groups whose members often end up in higher priced accommodation of poorer quality.

On average, *Code*-protected groups have lower incomes than other groups in society. As a result, low income can sometimes be a proxy for those *Code*-protected groups, and rules that affect low-income people may affect a disproportionate number of *Code*-protected people.

Lower-income tenants have fewer choices in the rental market because many of the housing options are out of their price range. Also, more low-income households move per year compared with higher-income households,¹⁶ and when people move into new private rental units they may have to pay significantly higher rent.¹⁷

This means that a municipality's actions that directly or indirectly restrict or reduce the availability of low-cost market rental and other affordable housing can have an adverse impact on *Code*-protected people. Some groups of people who are more likely to have lower incomes and who may also be protected by specific grounds of the *Code* include:

- ▶ Aboriginal Peoples (ancestry)
- ▶ Newcomers (citizenship, ethnic origin, place of origin)
- ▶ Racialized people (race, colour, ancestry, ethnic origin)
- ▶ Young or lone-parent families or growing families seeking larger accommodation (family status, marital status)

¹⁵ [1998] O.H.R.B.I.D. No. 21 at para. 124. The case was appealed to the Ontario Superior Court of Justice and varied – but not with respect to this point – see [2001] O.J. No. 297.

¹⁶ See the OHRC's *Right at Home: Report of the consultation on human rights and rental housing in Ontario*, 2008.

¹⁷ Rent increases for ongoing tenancies are regulated under the *Residential Tenancies Act*, 2006 and are capped at a maximum of 2.5% per year, but these protections do not extend to new tenancies. See *Residential Tenancies Act*, S.O. 2006 c.17, s.120(1)-120(2).

- ▶ Older people with low and fixed incomes (age, receipt of public assistance)
- ▶ Students (age, marital status, receipt of public assistance)
- ▶ People with disabilities (disability)
- ▶ People receiving funds under OSAP, Ontario Works (OW) Ontario Disability Support Program benefits (ODSP), or other types of public assistance (receipt of public assistance)
- ▶ Transgender people (gender identity, gender expression)
- ▶ Women (sex, family status, age).

Discrimination issues in rental housing often arise because of a combination of *Code* grounds. For example, a lone mother who is receiving social assistance might experience discrimination based on her sex, family status, marital status and receipt of social assistance. Similarly, young people who are looking for rental housing may experience discrimination based on their age and marital status.





Avoiding the discriminatory impacts of rental housing licensing

When drafting, reviewing and monitoring licensing bylaws, municipal planners should apply a human rights lens, to see if they might have an impact on Code-protected groups. Situations can change, and so municipalities should regularly monitor for these impacts.

If people experience a disadvantage due to rental housing licensing (such as being forced out of housing, or having a harder time finding housing) because of their connection to Code grounds (like age, family status, etc.) then municipalities may be violating the Code unless they can prove:

- ▶ The municipality adopted the bylaw, or a particular element of it, to achieve a rational planning purpose
- ▶ The municipality held a good faith belief that it needed to adopt the bylaw or the requirement to achieve that purpose
- ▶ The bylaw requirement was reasonably necessary to accomplish its purpose or goal, in the sense that other, less discriminatory alternatives would present undue hardship relating to health and safety or financial factors.

Bylaws that are arbitrary – that have no clear connection to their stated goal – are particularly vulnerable to being found to be discriminatory, contrary to the Code.

In embarking on rental housing licensing, the OHRC advises municipalities to:

1. Consider the Ontario *Human Rights Code* before drafting the bylaw and refer to the Code in the bylaw
2. Consult with Code-protected groups
3. Make sure that meetings about the bylaw do not discriminate
4. Roll out the bylaw in a consistent, non-discriminatory way
5. Work to secure existing rental stock
6. Avoid arbitrary bedroom caps
7. Avoid gross floor area requirements that exceed the Building Code
8. Eliminate per-person floor area requirements
9. Eliminate minimum separation distances
10. Enforce the bylaw against the property owner, not the tenants

11. Protect tenants in cases of rental shut down
12. Monitor for impacts on Code groups
13. Make sure licensing fees are fair.

1. Consider the Ontario Human Rights Code before drafting the bylaw and refer to the Code in the bylaw

In carrying out their responsibilities under the Provincial Policy Statement, the *Municipal Act, 2001*, the *Planning Act*, the *City of Toronto Act, 2006* and any policies and programs, municipalities must make sure they do not violate the Code. Because of its quasi-constitutional status, the Code has primacy over all other provincial legislation, unless the legislation explicitly states it applies notwithstanding the Code. In other words, if there is a conflict between the Code and other laws, the Code will prevail. Integrating language about the Code into the bylaw signals that the municipality takes these responsibilities seriously, and has thoroughly considered its obligations under the Code when drafting the bylaw, and also when monitoring its impact.

Municipalities that specifically cite in their bylaws the need to comply with the Code show that human rights must be considered in land use planning decisions.

They also show that protecting human rights is an important municipal goal that contributes to improving the regulation of residential rental properties. This is consistent with the aim of the Code, which includes recognizing the dignity and worth of every person.

This message may be reinforced when municipalities issue materials to people applying for rental housing licences. In its work on housing, the OHRC has heard that landlords sometimes exhibit discriminatory attitudes toward tenants because of their connection with Code grounds – and so this type of education would be extremely valuable.

Promising practice

The City of Waterloo refers to human rights principles, and the Ontario *Human Rights Code*, in its bylaw. Among other things, it notes that one of its purposes in regulating rental units is to “protect the health and safety and human rights of the persons residing in rental units.”

2. Consult with Code-protected groups

Consulting with groups who are likely to be affected by a bylaw is a best practice because it can help prevent Code violations before they occur. Sometimes regular public meetings may not be accessible to everyone who may be affected, or people may not be aware



of the meeting because the usual ways of publicizing the meeting and the process are not effective in reaching them. Or, a municipality may see that certain Code-protected groups have been underrepresented in public meetings. Conducting targeted outreach to vulnerable or marginalized groups makes sure that their voices are heard, and can help to remove unanticipated barriers to housing access that bylaws can create.

3. Make sure that meetings about the bylaw do not discriminate

Municipalities can use meetings to send the message that any licensing bylaw is about the housing stock being rented, not the people who might live there.

It is important for municipalities to highlight, at meetings and other discussions of the bylaw, that the purpose cannot be discriminatory. Municipalities should lay out ground rules at the beginning of meetings stating that discriminatory language will not be tolerated, and should actively interrupt and object to this type of language when it happens.

Municipalities should provide community education about their bylaws and enforcement activities, to ensure that all residents understand the purposes of the bylaw. Community education can

also build relationships between renters and other residents of the municipality.

4. Roll out the bylaw in a consistent, non-discriminatory way

If a bylaw is meant to serve legitimate planning or safety purposes, it should be needed by – and applied to – every part of the municipality. A bylaw that is applied first or only to a particular area of the municipality is more likely to be arbitrary, and could be seen to be targeting the people within that particular area. If the people in that area identify with certain Code grounds – for example, they belong to a racialized community, or they are mostly students – then the municipality may be targeting that group of people and could be susceptible to being found to be discriminatory, contrary to the Code.

Promising Practice

Waterloo applied its bylaw to the entire city, right away.

5. Work to secure existing rental stock

Grandparenting of existing homes, or variances for purpose-built homes, can help to make sure existing rental housing stock is retained so that Code-protected groups are not sharply affected when a licensing bylaw is introduced.

In accordance with the 2005 *Provincial Policy Statement*,¹⁸ municipalities should provide for an appropriate range of housing types and densities required to meet projected requirements of current and future residents by, among other things, establishing and implementing minimum targets for providing housing that is affordable to low and moderate income households.

6. Avoid arbitrary bedroom caps

If setting limits on the number of allowed bedrooms in rental units, municipalities should allow the number of bedrooms based on the original floor plan of the house, or the existing floor plan if alterations were done with municipal approval, in compliance with the Building Code, and/or are consistent with other housing in the area. Arbitrary bedroom caps can reduce the availability of housing for Code-protected groups. They can exclude large families with children, or extended families.

Municipalities that set bedroom caps based on medians and averages of demographic data may penalize any family or household that is not “average.” The negative impact could be substantial: according to the 2006 census, nearly half a million households in Ontario had five people or more. Family or

household size can be strongly influenced by ethnic origin, ancestry, creed and place of origin – each a Code ground. Recent studies suggest there is also a rise in multi-generational households across cultural backgrounds.

Municipalities need to carefully examine whether the caps they are considering are arbitrary. If they are meant to address parking or other planning concerns, then have they allowed for variances for houses that were originally constructed to have more bedrooms than the cap allows? If they have established caps for rental homes, what is their explanation for not applying those same caps to owned homes that have the same built form? If municipalities cite safety reasons – why do those same safety reasons not apply to owned homes?

Promising practice

The City of North Bay has a cap of five bedrooms, but allows landlords with more than five bedrooms to apply for an exception if their houses were originally constructed to contain more than five bedrooms. While a municipality is best protected against a Code complaint if it has no arbitrary bedroom caps at all, allowing for variances may limit negative impacts.

¹⁸ *Provincial Policy Statement*, Government of Ontario, 2005, section 1.4 (Housing).



Some municipalities do not have caps, but rather have a system where properties that rent more than a certain number of units are regulated by a separate lodging house regime. If that separate regime is arbitrarily onerous, then this type of system can create the same issues, and can contravene the *Code* just like a cap might.

7. Avoid gross floor area requirements that exceed the Building Code

The Building Code sets out requirements for floor areas of different rooms and spaces in all housing. Bylaw floor area requirements that are more stringent than Building Code regulations could be found to be arbitrary – and could contravene the *Human Rights Code*.

For example, if gross floor area requirements that limit the percentage of a home that can be devoted to bedrooms are not placed on people in owned homes, this could have an adverse effect on *Code*-protected groups.

8. Eliminate per-person floor area requirements

People should be able to share a bedroom, if they choose, without the landlord or the municipality peeking through the keyhole. In fact, any related questioning or investigation could lead to human rights complaints.

Requirements that dictate how much space a rental unit, or a room in a rental unit, must have *per person* may violate the *Code*.

O. Reg. 350/06, made under the *Building Code Act*, 1992 requires 7 square metres per bedroom, or as little as 6 if there are built-in cabinets;¹⁹ and 9.8 square metres per master bedroom, or 8.8 if built-in cabinets are provided.²⁰ It also allows for bedroom spaces in combination with other spaces in dwelling units, with a minimum area of 4.2 square metres.²¹

Many rental houses or units have bedrooms sized to comply with Building Code regulations, which could accommodate two or more people.

"Per occupant" references can severely limit housing options for people who commonly share rooms, such as couples, families with children, and many other people who identify

¹⁹ Building Code, 1992, Article 9.5.7.1.

²⁰ *Ibid.*, Article 9.5.7.2.

²¹ *Ibid.*, Article 9.5.7.4.

under Code grounds. Unless there is a *bona fide* or necessary reason why rented units should be required to meet requirements that exceed those in the Building Code (when owned homes do not face such a requirement), the OHRC finds “per occupant” references to be discriminatory.

Promising practice

The City of North Bay does not include per-person floor area requirements in its rental housing licensing bylaw.

9. Eliminate minimum separation distances

People zoning – where planning is used to control people based on their relationships, characteristics or perceived characteristics, rather than the use of a building – has been illegal for many years.²²

In the OHRC's view, minimum separation distances for housing are a form of “people zoning.”

Minimum separation distances were originally used to separate land uses such as industry and housing.²³ Their application has broadened over time.

Some municipalities apply minimum separation distances to “lodging houses” – i.e., rental units that are not apartment buildings, but which have a large number of rooms. This means that if one lodging house is established in a certain neighbourhood, others cannot be established within a certain distance or radius.

These minimum separation distances aren't about regulating buildings. A similar, owned house does not have this restriction. Minimum separation distances are about regulating people, and often flow from stereotypes associated with renters.

²² In *R v. Bell*, [1979] 2 SCR 212, the Supreme Court of Canada heard a challenge to a North York bylaw that limited the use of certain residential zones to dwellings designed or intended for use by an individual or one family. Family was defined as a group of two or more persons living together and related by bonds of consanguinity, marriage or legal adoption.

Justice Spence, speaking for the majority of the Court, found that the bylaw, in adopting “family” as the only permitted occupants of a self-contained dwelling unit, amounted to oppressive and gratuitous interference with the rights of people subject to the bylaw, and that:

the legislature never intended to give authority to make such rules and the device of zoning by reference to the relationship of occupants rather than the use of the building is one which is ultra vires of the municipality under the provisions of The Planning Act.

²³ See, for example, Finkler, L. & Grant, J., “Minimum separation distance bylaws for group homes: The negative side of planning regulation” (2011) 20:1 *Canadian Journal of Urban Research* 33-56 at 36, for a discussion of the typical use of minimum separation distances (to limit the impact of noise, odour or dust on others), and the movement by municipalities over time to other uses.

Instead of planning for inclusive neighbourhoods, minimum separation distances can limit the sites available for development and restrict the number of sites that are close to services, hurting people who are in need of housing.

In its submission to the OHRC's Housing Consultation in 2007, the Ministry of Municipal Affairs and Housing indicated that separation distance requirements should be justified on a rational planning basis, passed in good faith, and in the public interest.

Arbitrary separation distances can contravene the *Human Rights Code*. Some municipalities may try to use minimum separation distances to manage "overconcentration" of some types of housing within one neighbourhood. Minimum separation distances are basically restrictions – and can adversely affect renters by restricting the options available to them. Municipalities should consider incentives and ways to encourage affordable housing throughout the municipality. This is a positive approach, rather than the punitive one that minimum separation distances often cause.

The OHRC has intervened in two cases where bylaws establishing minimum separation distances were alleged to be discriminatory. The first case, at the Ontario Municipal Board, concerned a City of Guelph bylaw and is described below.

The second case, at the Human Rights Tribunal of Ontario, was launched by the Dream Team, an organization that advocates supportive housing for people with disabilities. In this case, the Dream Team challenged the City of Toronto's minimum separation distance requirements for group homes for people with disabilities. An expert hired by the City of Toronto to examine issues arising from the City's imposition of minimum separation distances to group homes said in his report that he could not find a "sound, accepted planning rationale" for those minimum separation distances and recommended that they be removed.²⁴

The OHRC also became a party to a proceeding at the Ontario Municipal Board that was launched by Lynwood Charlton against the City of Hamilton, after the City had refused to grant a site-specific amendment to a zoning bylaw requiring minimum radial separation distances for group homes for persons with mental disabilities.

²⁴ Sandeep K. Agrawal, *Opinion on the Provisions of Group Homes in the City-wide Zoning By-Law of the City of Toronto*, at pages 3 and 28, released February 28, 2013 by the City of Toronto, as a supplementary report to the *Planning and Growth Management Committee, In Final Report on the City-wide Zoning By-law: Supplementary Report on Human Rights Challenge to Group Home Zoning Regulations*, PG13020.

Promising practices

A City of Guelph bylaw used minimum separation distances to limit rental houses with accessory apartments and also reduced the number of units that could be rented in lodging houses. It appeared that these provisions might keep young people out of neighbourhoods, and would also result in a loss of affordable rental housing that would affect other people who identified with *Code* grounds (such as seniors, newcomers, people with disabilities, single-parent families and people in receipt of public assistance). The OHRC intervened in a challenge of that bylaw before the Ontario Municipal Board. In February 2012, before the matter proceeded to a hearing, the City of Guelph repealed the bylaw, and has committed to working with the OHRC to effectively deal with rental housing issues while at the same time promoting the human rights of tenants.

In 2010, the City of Sarnia changed its bylaws to make sure that people with disabilities do not face additional barriers in finding supportive housing. A group of psychiatric survivors had filed a human rights complaint against the City, alleging that its zoning bylaws violated the human rights of people with disabilities living in group homes. The City changed the bylaw so that:

- distancing requirements for all group homes were removed
- the requirement that group homes with more than five residents be located on an arterial or collector road was removed
- group homes may now be included in all zones allowing residential use
- residential care facilities are a permitted use in any residential zone.²⁵

10. Enforce the bylaw against the property owner, not the tenants

If rental housing licensing really is to regulate rental housing (rather than the people in it – which is not an appropriate goal in licensing) then property owners rather than renters should be held responsible for any licensing violations. This should be established clearly in the bylaw, and communicated to tenants and property owners alike.

11. Protect tenants in cases of rental shut down

Sometimes, a licensing bylaw will justifiably cause a rental unit to be shut down. For example, certain safety standards may not be met.

Municipalities should consider the impacts on tenants of any decisions to shut down their rental housing, and work to make sure that tenants are not displaced without recourse or assistance. Tenants should also be informed of

²⁵ OHRC, *In the zone: Housing, human rights and municipal planning*, 2012, p. 26.

Promising practice

The City of Waterloo rental housing licensing bylaw contains the following provision:

5.3 The Director of By-Law Enforcement, before revoking or suspending a licence pursuant to section 5.2 of this by-law, shall consider:

- a) the impact of any such licence revocation or suspension on any Tenants; and,
- b) imposing terms or conditions on any such licence revocation or suspension that would minimize the adverse impact on any Tenants, including the possibility of providing a reasonable time period before the licence revocation or suspension takes place to permit Tenants to find new housing or to seek relief in a Court or before the Ontario Landlord and Tenant Board.

health and safety issues when they are first raised, rather than simply facing eviction on short notice.

12. Monitor for impacts on Code groups

Municipalities should commit to monitor and evaluate the impact of their licensing bylaws on tenants at least every five years, to assess whether the bylaws have a discriminatory effect relating to Code grounds.

One way to minimize liability under the Code is to establish a program that regularly monitors impacts of the bylaw. More information about data collection that could help municipalities can be found in the OHRC handbook *Count Me In!* Data gathered for monitoring purposes should be broken down by Code ground, and collected in a manner

consistent with the Code. For example, a municipality could gather information from a representative sample of tenants and landlords through phone interviews, door-to-door visits, surveys or focus groups. The municipality could then follow up with participants over a period of time.

The municipality should report its findings on a regular basis. A monitoring program will be strengthened if it is conducted in consultation with an expert in data collection.

Promising practices

Both the Cities of North Bay and Waterloo have committed to ongoing monitoring and evaluation of their licensing bylaws.

13. Make sure licensing fees are fair

Certain constitutional rules apply to fees imposed by public bodies such as municipalities. While municipalities are entitled to charge licensing fees, "a nexus must exist between the quantum charged and the cost of the service provided." In other words, there must be a reasonable connection between the cost of the service and the amount charged.²⁶

Fees associated with licensing, if passed on to renters, might drive up the price of housing.²⁷ The OHRC has heard that increased costs associated with housing can have a particularly adverse impact on *Code*-protected groups. For example, in its *Right at Home* consultation, the OHRC heard from the Children's Aid Society of Toronto that a mandatory \$30 apartment insurance fee has an adverse impact on lower-income people, households on social assistance, poor single parents, youth and newcomer families. The OHRC also heard from the Centre for Equality Rights in Accommodation and the Social Rights Advocacy Centre that the same fee

could pose a financial barrier for Aboriginal people and members of racialized communities.²⁸ As the OHRC noted in *In the Zone*, municipalities can encourage development of affordable housing by reducing or waiving fees.²⁹

Promising practice

The City of North Bay reports that it was cautious with the fees it imposed — and instituted a licensing fee that is not 100% cost recovery — to limit any hardship for people affected by the bylaw.

²⁶ *Eurig Estate (Re)*, [1998] 2 S.C.R. 565 at para. 21.

²⁷ Other costs associated with licensing, such as fees for certain inspections, will probably not raise *Code* concerns if the inspections serve a legitimate health and safety purpose, are uniformly enforced among housing of the same type, and the fees are reasonably connected to the cost of the inspection.

²⁸ *Right at Home*, OHRC, page 33.

²⁹ *In the Zone*, OHRC, page 28-29.

Conclusion

Bylaws that limit housing availability for Code-protected groups could be found to be discriminatory. The Ontario Municipal Board discussed this concept in *Kitchener (City) Official Plan Amendment No. 58*. In that case, the Board investigated a municipal initiative to decrease the “over-concentration” of “single person, low-income households” and “residential care facilities and social/supportive housing” in certain areas.³⁰ The City argued that there was no discrimination because, among other things, “people [could] just go elsewhere.”³¹ The Board found that:

Depending on the ultimate content of revised municipal measures, municipal analysis and preparation may need to include the *Code* and *Charter*. That analysis is glib, if it merely assumes

that telling persons with disabilities and/or on public assistance to “just go elsewhere” is no encroachment on human rights, or that it was just a small one, or that it was for “a greater good.”³²

Bylaws that limit housing availability for Code-protected groups may also be in breach of planning principles. The Ontario Municipal Board stated in the *Kitchener* case:

As a matter of elementary preparation, if the City proposed to revise the rules for care facilities, it was incumbent on the City to devote at least some visible thought to what it was going to do with them. That is consistent not only with the Act and the PPS [Provincial Policy Statement], but with the very concept of “*planning*.”

³⁰ *Kitchener (City) Official Plan Amendment No. 58*, [2010] O.M.B.D. No. 666 at para. 2.

³¹ *Ibid.* at para. 137.

³² *Ibid.* at para. 149.

One does not undertake to reorganize the aquarium, without devoting at least some thought to where to put the fish.³³

"Housing is a fundamental human right. While rental housing licensing can be a valuable tool for promoting the safety and security of tenants, the ability to license must not be a licence to discriminate."

– Barbara Hall, Chief Commissioner,
Ontario Human Rights Commission

³³ *ibid.* at paras. 107-108.

Also in the *Kitchener* case, the OMB commented that the *Planning Act* and other instruments including the Provincial Policy Statement require the council of a municipality and other parties to consider matters of provincial interest including adequately providing a full range of housing (para. 21). Based in part on these principles, the OMB found that:

...Although it is fashionable in some circles to reduce all Provincial planning policy to a single glib focus on intensification, that oversimplification overlooks the specific PPS [Provincial Policy Statement] direction (in the explanatory text at Part II) that "a decision-maker should read all the relevant policies as if they are specifically cross-referenced with each other." Where was the attention to "improving accessibility," "preventing barriers" etc.?

That is where there is an evidentiary problem. The required planning analysis need not be encyclopaedic; but where the core of an OPA or By-law involves topics specifically itemized by the Province, one would expect at least some overt attention to those specified interests. Indeed, given that care facilities, the disabled, and assisted housing are the direct and intended targets of this initiative, then as a "planning" matter, one would have expected some municipal consideration of the impacts on arrangements for this population, even in the absence of the interests itemized in the Act and PPS.

Yet in the mass of writings during the six years following the ICB in 2003 – including the lead-up and follow-up to OPA 58 and the ZBA – neither the City nor Region were able to point to a *single sentence* showing how the impacts on this population were considered, let alone that Subsection 2(h.1) of the Act or PPS Subsection 1.1.1(f) had been considered in even the most perfunctory way (para. 99-101).



For more information

The following resources are available online:

Ontario Human Rights Commission

www.ohrc.on.ca

In the zone: Housing, human rights and municipal planning

Policy on human rights and rental housing

Human rights for tenants – brochure

Human rights in housing: an overview for landlords – brochure

Writing a fair rental housing ad

Ontario Ministry of Municipal Affairs and Housing

www.mah.gov.on.ca

Affordable housing

Planning Act Tools

Ontario Housing Policy Statement

Municipal Tools for Affordable Housing

To make a human rights complaint – called an application – contact the Human Rights Tribunal of Ontario at:

Toll Free: 1-866-598-0322

TTY Toll Free: 1-866-607-1240

Website: www.hrto.ca

To talk about your rights or if you need legal help, contact the Human Rights Legal Support Centre at:

Toll Free: 1-866-625-5179

TTY Toll Free: 1-866-612-8627

Website: www.hrlsc.on.ca

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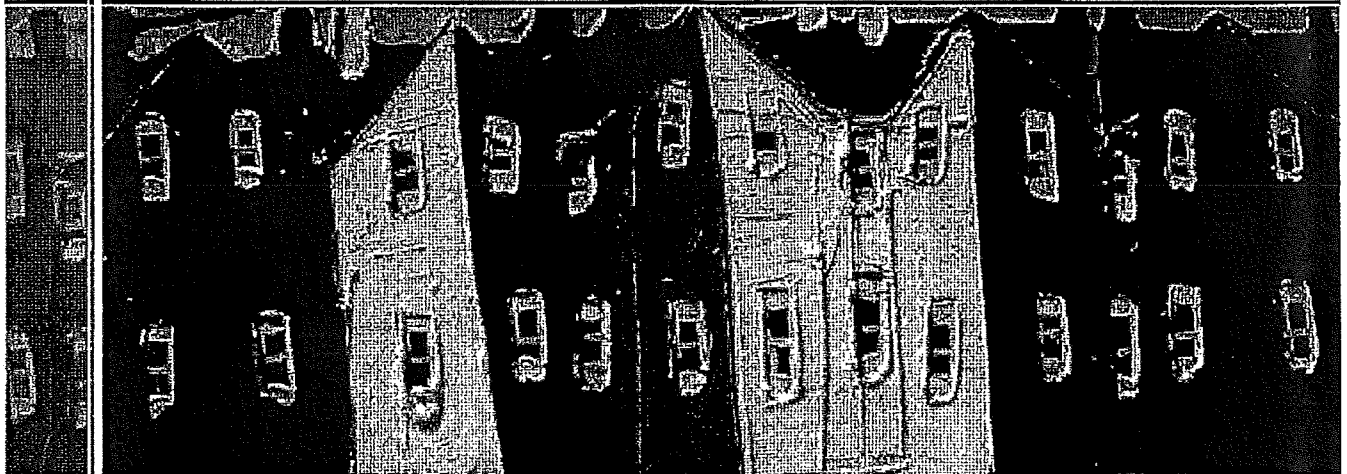
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student residence

Start your journey to a bright future with us!

Just steps away from the Student Centre at Fennell Campus is Mohawk's modern student residence the space for up to 340 residents.

New this year, Residence will have a mandatory meal plan for all Residence Students. Located for student convenience, there will be a food outlet on the first floor of Residence, which will be open 7 days a week, in addition to select food options on campus.

Get a head start on your peers and sign up for Residence's Early Move In. For only \$125.00, students can move in on August 26, 2012 and enjoy private Residence sessions that will help you transition smoothly into your first year. Nightly social and community events will be run by your peers to help you meet lifetime friends and get to know your Mohawk Community.

Residence is equipped with

- Fitness centre
- Comfortable study and TV lounges
- Laundry Facilities
- Bike Storage
- Meeting Rooms
- Games room
- Movie lounge

What does residence have to offer me?

- Fully-furnished suites with two private bedrooms, cable TV, limited Internet access, telephone with voicemail, climate controls, kitchenette, full-sized fridge and microwave, three-piece bathroom.
- Barrier-free suites for physically disabled students.
- Organized social events in the residence and Student Centre.
- Safe and secure environment including controlled access entry, visitor sign-in, video monitors and 24-hour staff to respond to emergencies.

Visit www.mohawkrez.ca or email mohawk@stayrcc.com

Phone: 905.385.3200

Fax: 905.385.2170

Email: mohawk@stayrcc.com

off campus housing

Up to date online services, listings and useful tips for living in the community are available to students throughout the year in all Student Engagement Offices.

Housing listings are available online at housing.mohawkcollege.ca

When living off campus, Mohawk College students have certain responsibilities and obligations as tenants in the neighbourhood. You need to be aware that several municipal bylaws in the cities of Hamilton and Brantford relate to excessive noise, parking restrictions, and property standards such as garbage removal, lawn maintenance, and snow clearing. As a student living in these rented properties, you have the responsibility of obeying these bylaws.

Mohawk College expects students to represent the College well in the way they live and act in the community. Students, whether on or off campus, are members of the Mohawk College community, with both the rights and responsibilities that College membership involves.



Good actions by students ensure quality standards of housing for Mohawk College students living in the community.



Housing Mediation Service helps landlords, students settle disputes

The housing mediation service at Fanshawe College and the University of Western Ontario does much more than resolve housing issues between landlords and students: it paves the way for better relationships by providing both parties with strategies for resolving their differences.

Glenn Matthews, housing mediation officer, has mediated disputes between students, landlords and London residents for the last 17 years. He says those who use the service, which is free of charge, appreciate the fact he gives a frank opinion about a situation.

"I try and give honest feedback where there are issues - that's whether that's a tenant or a landlord," Matthews says. "They'll get an opinion from me that's, in my mind, unbiased. Obviously, I hope other people see it that way."

The mediation process gives landlords and tenants an opportunity to discuss their problems. Matthews helps to resolve issues by providing information to landlords and tenants, and by suggesting approaches to handling their problems. In at least 30 to 40 per cent of cases, successful resolution can be achieved through education, Matthews says.

Many disputes centre on money, including tenants not paying the rent, tenants damaging the property or landlords not repairing items that need to be repaired.

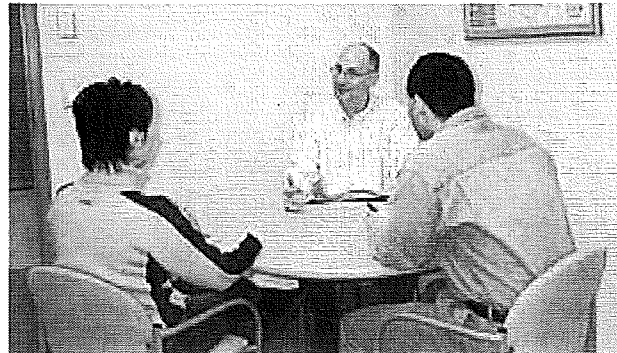
Roommate problems also arise when roommates don't pay their share of the rent or the utility bills. There are particular problems when units in buildings aren't individually metered and the division of payment isn't specifically stated in the lease.

Sometimes landlords who own a duplex split the electricity bill evenly between the two households in the interests of simplicity. If one unit has two bedrooms, however, and the other unit has three bedrooms, tenants in the smaller unit will expect to pay a smaller portion of the bill.

Other relationship problems become apparent in unexpected ways. Matthews says residents call him when garbage begins to pile up outside a home. When he spoke to the tenants in one situation, he learned there was a roommate dispute and the tenants were trying to see who could hold out the longest.

"It affects the neighbours, it affects the landlord, and it affects the tenants within the house," Matthews says.

The housing mediation office tries to address recurring problems through its web site, www.uwo.ca/hfs/housing/. It contains information on the Tenant Protection Act, a roommate agreement, tips on being a good neighbour, and the specifics of renting in London.



Glenn Matthews counsels clients.

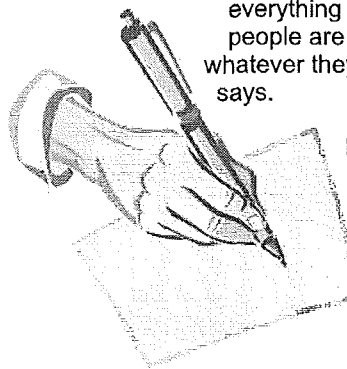
The web site will soon be expanded to include information of interest to landlords, such as ways in which they can build better relationships with tenants, and changes to fire safety regulations and city bylaws.

That information is currently being disseminated through a newsletter that's sent to landlords. "We try to get that information into the hands of landlords so they have fewer issues to deal with," Matthews says.

The housing mediation office comes into contact with prospective landlords when they call the off-campus listing service at Fanshawe or Western. Staff there put them in touch with Matthews, who suggests they join the London Property Management Association for at least a year. Being a member gives them access to industry leases and good information about the rights and obligations involved in being a landlord.

Matthews finds that some small landlords still use verbal agreements, instead of proper industry leases. If agreements aren't in writing, however, landlords and tenants will be less likely to abide by them.

"We strongly advocate having everything in writing now, because people are more likely to abide by whatever they see in writing," Matthews says.



The secret to good landlord and tenant relationships is basic, Matthews believes. "Be upfront, open and honest, and get everything in writing. That will likely allow for a better relationship."

For more information, contact Glenn Matthews at 519-661-3787.