

XXXXXXXXXXXXXXXXXX, Hamilton

Water Billing Dispute Delegation to Audit, Finance & Administration Committee

Summary

The current property owner purchased XXXXXXXXXXXXXXXXXXXX, Hamilton in October 2018, which consists of rental commercial and residential units. There is a single water service line/water meter for the entire property. The commercial tenant is the water account holder (commercial tenant held accounts are permitted whereas, all residential accounts established after June 1, 2018, must be opened and billed in the name of the registered owner(s) of the property). An online review shows the commercial unit is operating as a café/hookah bar. The property tax bill is directed to the owner/landlord with a Mississauga mailing address. There have not been any water arrears transfers to the property tax roll but there has been three Municipal Law Enforcement (MLE) charges applied to the tax roll during 2020.

Table 1 on page two provides the property's water and wastewater/storm billings for the past year. As reflected on the July 2020 water bill, the water consumption for the property essentially doubled from previous months. The water consumption further increases by over 200% with the October 2020 water bill. The following two month's bills reflect massive increases in water consumption suggestive of leaking condition(s) that have progressively worsened over time.

Property owners need to be aware that although billing and payment notifications may be sent to a commercial tenant, subsection 398 (2) of the *Municipal Act, 2001* authorizes the City to add unpaid water and wastewater fees and charges to the tax roll of the property to which the public utility was supplied.

All internal plumbing is private property and as such, any repairs are the responsibility of property owners. Property owners of rental properties that have redirected the water bill to a commercial tenant need to keep in regular contact with their tenants to be aware of changes in the property's water consumption that may indicate potential plumbing issues that lead to high water bills. Additionally, as set out in the *Residential Tenancies Act, 2006*, landlords may carry out periodic inspections of rental units to ensure they remain in a good state of repair.

In December 2020, following several months of increasing water bills, the property owner contacted Alectra Utilities (the City's water billing agent) requesting that the November and December 2020 water billings be outright waived. The City's Water Leak Adjustment Policy (Policy) may provide limited financial relief to eligible customers, however, commercial landlords (apart from non-profit housing) are not eligible applicants.

City's Water Bill Adjustment Policies

City Council has approved water bill adjustment policies (Water Leak Adjustment Policy and the Extraordinary Circumstance Policy) that provide staff the authority to allow bill adjustments under specific circumstances, however, an "Income Producing Residential

Rental Property” is excluded under these policies. The term “income property” should not be confused to mean that rental income exceeds the property’s operating costs (mortgage, property taxes, utilities, maintenance, etc). Many landlords do not “profit” from the rent exceeding the aforementioned costs but recoup operating cost recovery shortfalls when selling the property by means of the capital appreciation of the property over time.

The *Municipal Act, 2001* does include an “anti-bonusing” clause whereby a municipality shall not assist directly or indirectly any commercial enterprise through the granting of bonuses that includes giving a total or partial exemption from any levy, charge or fee. This consideration is why landlords are excluded from being eligible under the bill adjustment policies that any Ontario municipality may offer. This is also why Hamilton may provide an adjustment to registered non-profit housing (social housing) providers. The City’s Legal Services division have reviewed the existing water bill adjustment policies and continue to recommend that income producing properties be considered as commercial so that such policies be restricted to residential and non-profit customers to comply with the *Municipal Act*.

TABLE 1

Read Date	Total Bill (\$)	Consumption (m3)	Read From	Read To	Avg Daily (m3)	Billing Days
12/18/20	\$ 902	259	8717	8976	8.355	31
11/17/20	\$ 1,292	375	8342	8717	13.889	27
10/21/20	\$ 575	162	8180	8342	4.765	34
9/17/20	\$ 205	54	8126	8180	1.862	29
8/19/20	\$ 283	76	8050	8126	2.303	33
7/17/20	\$ 237	63	7987	8050	2.032	31
6/16/20	\$ 116	27	7960	7987	0.818	33
5/14/20	\$ 117	28	7932	7960	0.966	29
4/15/20	\$ 121	29	7903	7932	0.967	30
3/16/20	\$ 122	30	7873	7903	1.111	27
2/18/20	\$ 150	37	7836	7873	1.156	32
1/17/20	\$ 110	26	7810	7836	0.839	31

Alectra Utilities (AUC) Customer Contact Timeline

12/04/20 - Owner calls AUC advised that account is in tenant’s name but since there are multiple units, he pays the water portion. AUC advised water consumption began increasing in June 2020 and suggested a water meter read be taken by the customer from the water meter to confirm reads and to check for leaks. AUC advised of use of dye test with toilets to identify flapper issues, use of water meter to identify low flow leakage and availability of optional payment arrangements.

12/07/20 – Owners contacts AUC inquiring about relief programs and was advised no credit programs were available however can offer payment arrangements (tenant has authorized owner). AUC suggested waiting for December bill to include in a payment arrangement.

12/24/20 – Owner contacts AUC requesting high water billings be waived. AUC explained can only offer payment arrangement only. Owner advised heard a hissing noise and had it fixed. Owner escalated call with AUC supervisor who also advised no credit relief available but could offer payment arrangement. Owner stated the water supplies residential units, as well as, commercial and wanted the water billing to be moved to the residential electric account. AUC supervisor advised doing so still does not permit consideration under the City's Water Leak Adjustment Policy. Owner stated he would dispute City Policy with Council.

12/24/20 - Owner entered into a 12-month payment arrangement for outstanding water/wastewater balance of \$2,193.34 with the first installment commencing with the January 2021 water bill.