



**CITY OF HAMILTON**  
**HEALTHY AND SAFE COMMUNITIES DEPARTMENT**  
**Housing Services Division**

<b>TO:</b>	Chair and Members Emergency and Community Services Committee
<b>COMMITTEE DATE:</b>	April 22, 2021
<b>SUBJECT/REPORT NO:</b>	Tenant Defence Fund (HSC19011(a)) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Edward John (905) 546-2424 Ext. 4860
<b>SUBMITTED BY:</b>	Paul Johnson General Manager Healthy and Safe Communities Department
<b>SIGNATURE:</b>	

### RECOMMENDATION(S)

- (a) That the Tenant Defence Fund Program be expanded and amended to include tenants being displaced due to evictions as a result of renovations;
- (b) That the Tenant Defence Fund grant amount eligible to tenants for legal fees be increased to \$2,500;
- (c) That the Outstanding Business List item identified as Mitigation Effects of Renovictions, be removed from the Outstanding Business List and considered complete.

### EXECUTIVE SUMMARY

In March 2019, the City created the Tenant Defence Fund (TDF) to assist with Above Guideline Increase (AGI) applications at the Landlord and Tenant Board (LTB). The Tenant Defence Fund Program provides financial and other support to assist eligible tenant groups prepare and present a defence against AGI applications. To date, there has been very limited uptake in this program leaving available funds to consider expanding the program. This report proposes to expand the mandate of the Tenant Defence Fund Program to include tenants facing displacement due to renovictions.

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**Alternatives for Consideration – Not Applicable**  
**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: The existing fund has a remaining balance of \$50,000 and will be used for the expanded mandate. Staff will monitor uptake, and should additional resources be required, a subsequent report will be prepared.

Staffing: N/A

Legal: Updates to the existing program will be reviewed with Legal Services.

**HISTORICAL BACKGROUND**

October 2, 2019, the General Issues Committee approved Report PED19178/HSC19052, Financial Incentive Program Amendments Respecting Potential Tenant Displacement.

On December 19, 2018, Council directed staff to establish a Tenant Defence Fund (TDF).

On March 27, 2019, Council approved the establishment of the Tenant Defence Fund Pilot Project in the amount of \$50,000.

Dec 16, 2020, Council directed staff to review renovictions in Hamilton and report back to the Emergency and Community Services Committee with information about what other jurisdictions have done to reduce the problem and what the City can do to mitigate the number of people who are affected by this practice.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Housing and Homelessness Action Plan

Outcome 3: People have the individualized supports they need to obtain and maintain housing.

Strategy 2: Increase housing supports that help tenants remained housed.

Implementation Action: Promote a complete suite of services for people experiencing or at risk of homelessness including shelter diversion, rapid rehousing, housing first, and eviction prevention.

Outcome 5: All people experience equity in housing and housing-related services.

Strategy 5: Improve information and knowledge sharing within the housing sector

Implementation actions: Develop and implement a public campaign to increase awareness and knowledge of the housing rights and responsibilities of both landlords and tenants. This campaign will include rental housing best practice guidelines.

Amendment to the terms of reference for the Tenant Defence Fund to include renovictions.

## **RELEVANT CONSULTATION**

The issue of renovictions has been discussed within the housing and homelessness sector over the last two years including discussions with ACORN, the tenant advocacy group. Extensive public comments from Councillors have informed the consultation on the issue of renovictions.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Renovictions:

The issue of renovictions has been a growing focus of the Hamilton community for a number of years. In 2019, Report PED19178/HSC19052 was approved to address renovation concerns around the Commercial Corridor Housing Loan and Grant Program, the Hamilton Tax Increment Grant Program, the Barton/Kenilworth Tax Increment Grant Program and the Barton/Kenilworth Commercial Corridor Building Improvement Grant Program. The purpose of this program was to ensure that any property improvements funded by these incentive programs do not result in the permanent displacement of an existing tenant, as a result of the improvement.

Renovictions have since been identified as a system wide issue that impacts some of the most vulnerable renters in the City of Hamilton.

New Westminster Program

New Westminster British Columbia has a licensing by-law regarding rental units and addresses the issue of renovations.

This legislation requires any landlord who is doing renovations to obtain every building permit, plumbing permit, development permit, special development permit or heritage alteration permit required. Additionally, the landlord must also enter into a new tenancy agreement with the tenant on the same terms or better for a comparable rental unit in the same building. If they are unable to accommodate in the same building, they must make other arrangements in writing for the tenants' temporary accommodation during the renovation.

Central to their licensing regime is the premise that tenants should be able to reside within their unit during renovations and subsequent accommodations be made to address their needs within the unit or building during the proposed works. The landlord is as a result required to apply to the city in those circumstances where this is not feasible.

Staff propose to raise and evaluate this option as part of the on-going licensing review, recognizing that limitations may still exist with respect to the governing legislation regarding the Landlord Tenancy Act.

With respect to the building permit process itself, under the current legislation less ability is available to affect the issuance of permits as a result of the Ontario Building Code requirements.

Governing Legislation:

The issue of renovations is governed by Provincial legislation through the *Building Code Act* and the *Landlord Tenancy Act*.

The *Building Code* states:

The chief building official shall issue a permit referred to in subsection (1) unless,  
(a) the proposed building, construction or demolition will contravene this Act, the building code or any other applicable law;

The above identifies 'applicable law'. The *Building Code Act* further identifies what applicable law is under the Act and the *Landlord Tenant Act* is not deemed to be applicable law under the *Building Code Act*.

On the basis of the above, placing caveats or conditions on the issuance of a Building Permit is specifically limited. The *Building Code Act* has a specific section that speaks to a 'Conditional Permit' which outlines when a Conditional Permit may be issued. Conditional Building Permits are used when all the applicable law(s) (except zoning) have not been met and permits an applicant (at the Chief Building Official's discretion) to enter into an agreement with the municipality to proceed prior to all the applicable law requirements having been met. Placing a restriction on a building permit tied to tenancy is therefore not an option for a conditional building permit. Additionally, the Building Division confirmed that they could not place a caveat or a condition on a Building Permit without the regulatory authority to enforce such

The *Landlord Tenancy Act* provides the following guidance related to evictions for renovations.

Eviction for Personal Use, Demolition, Repairs and Conversion: Interpretation Guideline 12:

A landlord may apply to terminate a tenancy on the basis that the landlord: (1) will demolish the rental unit; (2) needs vacant possession to do extensive repairs or renovations; or (3) intends to convert the rental unit to non-residential use.

The Province of Ontario provides guidance to tenants if evicted due to renovations:

Your landlord must also compensate you if they evict you from your unit to:

- renovate
- repair
- demolish

They must give you the right of first refusal to move back into the unit following the renovation. You must notify your landlord in writing before you leave that you want them to offer you the unit when they complete the renovation.

Under the new rules, if your landlord fails to provide you a right of first refusal, you will have two years, rather than one, to file a claim with the Landlord and Tenant Board for compensation.

As detailed below, staff will continue to ensure as comprehensively as possible that education of these rights are provided proactively to tenants who may be at risk of renovictions.

### Property Standards By-law

The City of Hamilton is in the process of updating the Property Standards By-law to provide greater clarity on matters that are covered, and which can be enforced by the Property Standards By-law. While these updates will not specifically address the issue of renovictions, it does provide additional support to tenants to address factors that lead to displacement of tenants as well as provide an opportunity to inform and educate tenants of their rights.

### Community Input

The issue of renovictions has been an issue for many community advocates. ACORN on their website states:

“The City should expand and make permanent the Tenant Defence Fund by adding tenant outreach and education to its mandate as well as expanding the criteria for eligibility to include tenants at risk of displacement.”

As detailed within this Report, staff will seek to expand the mandate to include financial resources for those individuals addressing renovictions in front of the LTB. With respect to education of renters' rights, this forms a central component to the approach, recognizing that individuals may be coerced into leaving units without fully appreciating their rights under the Act. Staff will therefore continue to support and extend the existing educational opportunities to do this. Staff will work with the Building Division and the Licensing and By-Law Services Division to determine all reasonable and proactive opportunities to inform and educate in circumstances where there is a potential for tenant displacement.

With respect to education, staff also consider it important to raise concerns and offer education to the Hamilton District Apartment Association recognizing the important role the Association can play in limiting this process.

#### Direction

Expanding the Tenant Defence Fund to include renovictions would allow the already existing program and staff compliment to support tenants with preparation and legal support at the Landlord Tenant Board.

The current program includes:

- 1) A \$1,000 grant for the purpose of hiring legal support from a paralegal or lawyer;
- 2) In addition to the \$1,000 for legal representation, support services (up to a maximum value of \$250) provided by the Housing Services Division for photocopying, printing, postage, and meeting space rental, either prior to a tenant group retaining a legal agent, or if the tenant group chooses to represent themselves. Support may also include services such as securing meeting space, help preparing the grant application, or other relevant services that are pre-approved by the Tenant Relations Officer, Housing Services Division.

A revised program would include the issue of renovictions and would increase the amount available for the purpose of hiring legal support from a paralegal or lawyer to \$2,500.

Staff will continue to monitor uptake and look for improvements in the program which will include increased financial resources and will report back to this Committee. Discussions with the Legal Clinic will also continue to ensure no duplication and complementary support can be provided on individual cases.

**ALTERNATIVES FOR CONSIDERATION**

Not Applicable

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

**Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

**Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

**Built Environment and Infrastructure**

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

**APPENDICES AND SCHEDULES ATTACHED**

Not Applicable