



Financial Incentive Program Amendments Respecting Potential Historical Tenant Displacement (PED21159) (City-Wide)

General Issues Committee – September 8, 2021

Council Direction to Staff

On July 9, 2021 City Council approved the following direction:

“Report PED21140, respecting the Hamilton Tax Increment Grant - 540 King Street East, Hamilton, was referred back to staff to meet with ACORN Hamilton and the applicant, as well as to provide a legal analysis, and policy revisions to address any potential loopholes of this program, which may result in displacement of tenants and report back to the General Issues Committee.”

Additional Programs subject to staff’s review:

- Barton/Kenilworth Tax Increment Grant
- Barton/Kenilworth Commercial Corridor Building Improvement Grant
- Commercial Corridor Housing Loan and Grant

Responding Staff Reports

There are two staff reports on today's agenda responding to different aspects of Council's direction:

- PED21159 respecting recommended policy revisions to programs (the subject of this presentation)
- PED21140(a)/LS21033 respecting the Hamilton Tax Increment Grant for 540 King Street East specifically addressing Council's request for staff to meet with ACORN Hamilton and the Applicant, as well as to provide a legal analysis

Background

- Programs are intended to support the revitalization of commercial districts and corridors through the improvement/creation of commercial, residential and mixed use buildings and properties
- Since the programs subject to review were created, they have assisted with the renovation of **162** residential units and the creation of **1041** residential units, of which **676** units were rentals.
- These programs were last subject to amendments in October 2019 in response to a Motion of Council respecting mitigation of potential tenant displacement. Program amendments approved by Council via PED19178/HSC19052 came into effect on Jan. 1, 2020

Staff's Review

- Concerns raised by delegations at the July 5, 2021 General Issues Committee focused on the use of *N11/N13 notices to displace tenants
- Staff note that concerns with *N11/N13 notices generally focused on actions taken by landlords in conjunction with providing such notices such as offering 'buy-outs' to end a tenancy or being provided such notices in bad-faith
- Actions such as offering buy-outs or other inducements to tenants are not in contravention of Provincial legislation.

**an N11 notice being a mutual agreement between a tenant and landlord to end a tenancy and an N13 notice being a notice to end tenancy because the landlord is seeking to demolish a rental unit, repair it or convert it to another use*

Staff's Review

- Consideration of a landlord's use of N11/N13 notices as a means of determining program eligibility requires subjective considerations such as:
 - Was a tenant aware of their rights when a 'buy-out' or inducement was accepted?
 - Was a tenant aware of Hamilton's rental market conditions and the potential for increased rents at a new location?
 - Were actions taken by the landlord (such as offering a buy-out), while not in contravention of provincial regulations, considered to be "acceptable"? By what standard would this be determined if not in contravention of legislation?
- These subjective matters require the exploration of claims and facts, and ultimately determinations of right or wrong, that should be made under the Province's jurisdiction in a formal tribunal setting via the Landlord and Tenant Board.

Recommendations

- Staff are recommending that programs be amended to exclude from future eligibility renovations to existing rental units except in certain circumstances:

		Programs			
		Hamilton Tax Increment Grant	Barton/Kenilworth Tax Increment Grant	Barton/Kenilworth Commercial Corridor Building Commercial	Corridor Housing Loan and Grant
Exceptions	It can be confirmed that no tenant displacement has occurred	✓	✓	✓	✓
	The project includes affordable housing that is supported by a CMHC, Federal, Provincial or City program	✓	✓	✓	✓
	The existing building has been entirely vacant for at least two years prior to an application being submitted	✓	✓	✓	✓
	The property owner and program applicant are a registered, not-for-profit organization	✓	✓	✓	✓
	Improvements are for shared services also utilized by a commercial space within the same building (HVAC, pumbing etc.)	*No municipal tax increment anticipated		✓	✓
	Improvements respond to an order issued under any act or law or support the legalization/recognition of an existing unit, without which, the unit would no longer be permitted to be occupied.			✓	✓

Implementation

- Staff's recommendations will require amendments to the Downtown and Community Renewal Community Improvement Plan (DCR CIP) which will require a statutory public meeting and associated public notice to be provided in accordance with the *Planning Act*
- At the time of Council's direction, staff were already finalizing updates/changes to the DCR CIP arising from a previously completed comprehensive review presented via PED21035 and approved by Council March 31, 2021
- The previously planned updates already required a statutory public meeting and new implementing by-laws which were planned for the September 21, 2021 Planning Committee meeting
- Staff are recommending that the additional changes presented today be consolidated with already planned updates and brought forward together

Transition

- In accordance with required appeal periods provided under the *Planning Act*, the updated DCR CIP could not come into effect any earlier than October 19, 2021
- Until the updated CIP has come into effect, staff may be required to bring forward recommendation reports for existing program applications involving the renovation of existing rental units which meet existing program terms
- Once the updated CIP has come into effect, new applications, as well as any existing applications not yet approved will be subject to the updated programs.



Hamilton

THANK YOU