



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Licensing and By-law Services Division

TO:	Chair and Members Emergency and Community Services Committee
COMMITTEE DATE:	October 19, 2023 (Deferred from August 17, 2023)
SUBJECT/REPORT NO:	Addressing Renovictions, Tenant Displacement and Property Standards in Apartment Buildings in the City of Hamilton (PED23072) (City Wide) Sub-sections (e), (f), (g), and (h) DEFERRED from August 17, 2023
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Gillian Barkovich (905) 546-2424 Ext. 2348
SUBMITTED BY:	Monica Ciriello Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- ~~(a) That staff be directed to prepare a Safe Apartment Buildings By-law to regulate apartment building property standards and registration of apartment buildings city-wide in a form satisfactory to the City Solicitor, as per Appendix “A” to Report PED23072 (the “Safe Apartment Buildings By-law”), following the 2024 budget process, subject to the approval of the staffing and resourcing outlined in Recommendation (d) as part of the 2024 Budget;~~
- ~~(b) That City of Hamilton User Fees and Charges By-law No. 23-112 be amended to reflect the new Fee Schedule developed at 65% cost recovery for the Safe Apartment Buildings By-law, attached as Appendix “B” to Report PED23072;~~
- ~~(c) That, subject to the adoption of the Safe Apartment Buildings By-law, the Transition Plan as detailed in Appendix “C” to Report PED23072 to develop, implement and administer the By-law be approved;~~

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.

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- (d) ~~That the appropriate General Managers be directed to refer the following to the 2024 Budget for the implementation of the Safe Apartment Buildings By-law:~~
- (i) ~~One full time (1.0 FTE) Manager in the Licensing and By-law Services Division at an estimated total cost of \$192,000 annually (\$67,200 net levy);~~
 - (ii) ~~One Full-time (1.0 FTE) Project Manager in the Licensing and By-law Services Division at an estimated total cost of \$147,000 annually (\$51,450 net levy);~~
 - (iii) ~~Two full-time (2.0 FTE) Supervisors of Operations and Enforcement in the Licensing and By-law Services Division at an estimated total cost of \$289,000 annually (\$101,150 net levy);~~
 - (iv) ~~Thirteen full-time (13.0 FTE) Municipal Law Enforcement Officers in the Licensing and By-law Services Division at an estimated total cost of \$1,416,000 annually (\$495,600 net levy);~~
 - (v) ~~One full-time (1.0 FTE) Program Analyst in the Licensing and By-law Services Division to provide applications support, analyses data and provide program support, at an estimated total cost of \$114,000 annually (\$39,900 net levy);~~
 - (vi) ~~One full-time (1.0 FTE) Licensing Administrator in the Licensing and By-law Services Division to administer registration applications, at an estimated total cost of \$96,000 annually (\$33,600 net levy);~~
 - (vii) ~~Two full-time (2.0 FTE) By-law Clerks in the Licensing and By-law Services Division to enter files and provide support to enforcement staff, at an estimated total cost of \$176,000 annually (\$61,600 net levy);~~
 - (viii) ~~One full-time (1.0 FTE) Administrative Secretary in the Licensing and By-law Services Division at an estimated total cost of \$83,000 annually (\$29,050 net levy);~~
 - (ix) ~~One full-time (1.0 FTE) Outreach Coordinator in the Licensing and By-law Services Division at an estimated total cost of \$109,000 annually (\$38,150 net levy);~~

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- ~~(x) One full-time (1.0 FTE) Solicitor in Legal Services to provide dedicated legal support, at an estimated total cost of \$212,000 annually (\$74,200 net levy);~~
- ~~(xi) One full-time (1.0 FTE) Screening Officer at an estimated total cost of \$124,000 annually (\$43,400 net levy);~~
- ~~(xii) The purchase of thirteen (13) vehicles at an estimated initial cost of \$708,825 and an annual operating cost of \$116,350 (\$40,723 net levy);~~
- ~~(xiii) An outreach, education and communications budget of \$20,000 annually (\$7,000 net levy); and~~
- ~~(xiv) A one-time cost of \$2,003,441 to fund the 18-month transition period for the implementation of the By-law.~~
- (e) That staff be directed to prepare a Renovation Licence and Relocation Listing By-law to regulate repairs and renovations to rental units, in a form satisfactory to the City Solicitor, as per Appendix "D" to Report PED23072, following the 2024 budget process, subject to the approval of the staffing and resourcing outlined in Recommendation (h) as part of the 2024 Budget;**
- (f) That City of Hamilton User Fees and Charges By-law No. 23-112 be amended to reflect the new Renovation Licence and Relocation Listing Fee Schedule developed at 10% cost recovery attached as Appendix "E" to Report PED23072;**
- (g) That, subject to the adoption of the Renovation Licence and Relocation Listing By-law, the Transition Plan as detailed in Appendix "F" to Report PED23072 to develop, implement and administer the By-law be approved;**
- (h) That the appropriate General Managers be directed to refer the following to the 2024 Budget for the implementation of the Renovation Licence and Relocation Listing By-law:**
 - (i) Three full-time (3.0 FTE) Licensing Administrators in the Licensing and By-law Services Division to administer licence applications, enter investigation files and respond to inquiries, at an estimated total cost of \$287,000 annually (\$258,300 net levy);**
 - (ii) Three full-time (3.0 FTE) Licensing Compliance Officer in the Licensing and By-law Services Division to enforce the By-law, at an estimated total cost of \$327,000 annually (\$294,300 net levy);**

- (iii) One full-time (1.0 FTE) Solicitor in Legal Services to respond to legal challenges and increased Property Standards Committee hearings, at an estimated total cost of \$212,000 annually (\$190,800 net levy);**
 - (iv) One full-time (1.0 FTE) Housing Clerk in the Housing Services Division to facilitate tenant support/education, at an estimated total cost of \$80,000 annually (\$72,000 net levy);**
 - (v) The purchase of three (3) vehicles at an estimated initial cost of \$163,575 and an annual operating cost of \$26,850 (\$24,165 net levy);**
 - (vi) An outreach, education and communications budget of \$10,000 annually (\$9,000 net levy); and**
 - (vii) A one-time cost of \$150,000 to fund the transition period for the implementation of the By-law.**
- ~~(i) That By-law No. 09-190 (the "Vital Services By-law") be repealed and replaced with the draft By-law attached as Appendix "G" to Report PED23072, which has been prepared in a form satisfactory to the City Solicitor, to incorporate language and clarifying amendments to facilitate enforcement;~~
- ~~(j) That By-law No. 10-221 (the "Property Standards By-law") be repealed and replaced with the draft By-law outlined in Appendix "H" to Report PED23072, which has been prepared in a form satisfactory to the City Solicitor;~~
- ~~(k) That the draft By-law to amend Schedule 31, Rental Housing, of the Business Licensing By-law No. 07-170, attached as Appendix "I" to Report PED23072, which has been prepared in a form satisfactory to the City Solicitor, be approved, to extend the rental housing licensing pilot project to include rental properties of 5 units or less;~~
- ~~(l) That the Administrative Penalties By-law No. 17-225 be amended to incorporate charges under the Safe Apartment Buildings By-law, Renovation Licence and Relocation Listing By-law, Vital Services By-law and Property Standards By-law attached as Appendix "J" to Report PED23072;~~
- ~~(m) That Licensing and By-law Services staff be directed to work with Legal Services to obtain approval for set fines with the Ministry of the Attorney General;~~

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- ~~(n) That staff be directed to report back to Council with respect to the amount of fine revenues collected under the Safe Apartment Buildings By-law and Renovation Licence and Relocation Listing By-law after they have been in force and effect for 12 months, including options for how fine revenues could be utilized to advance the strategies of the Housing and Sustainability Investment Roadmap;~~
- ~~(o) That Outstanding Business List item 5.10, dated February 22, 2023 relating to correspondence at 1083 Main Street East, and item 1.0, dated April 20, 2023 relating to addressing renovictions, be removed;~~

EXECUTIVE SUMMARY

The purpose of this report is to respond to the motion passed at the April 20, 2023 meeting of the Emergency and Community Services Committee which directed:

“That staff be directed to report back to the Emergency and Community Services Committee in August 2023, with recommendations on the full suite of options to halt renovictions in the City of Hamilton including RentSafeTO, the City of Toronto Tenant Support Program and amendments to various City By-laws, the use of building permits, and a city-wide Licensing By-law and a New Westminster style Renovictions By-law as well as any potential By-law associated with the review of the RentSafeTO program; and that staff report back on the ability for the Municipality to track sale notices for multi-unit buildings, to monitor trends in this area and create process to inform tenants of their right in case of ownership change.”

Specifically, this report addresses the aspects of the April 20, 2023 motion dealing with a RentSafeTO-style initiative, as well as By-law amendments and licensing approaches to address renovictions. The component of the motion dealing with the creation of a new Tenant Support Program will be addressed through a separate report brought forward by Housing Services Division in Report HSC23023(b). In addition, staff are currently preparing a rental housing replacement By-law, which will be presented to Council in Q4 2023.

This report proposes the creation of a Hamilton Apartment Rental Program, which would comprise four separate, but interconnected, new initiatives to address renovictions, tenant displacement and property standards in apartment buildings in the City of Hamilton:

- A new “Safe Apartment Buildings By-law” to regulate apartment building property standards and registration of apartment buildings.

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- A new, first-of-its-kind in Canada, “Renovation Licence and Relocation Listing By-law” to regulate repairs and renovations to rental units.
- Updates to the City’s Vital Services and Property Standards By-laws to better regulate the supply of vital services and to prescribe clearer standards for the maintenance and occupancy of rental properties.
- Amendments to Schedule 31, Rental Housing, of the Business Licensing By-law No. 07-170 to extend the current rental housing licensing pilot project to include rental properties of 5 units or less (rather than the current 4 units or less), within the same geographic areas of the pilot project.

The new By-laws and By-law amendments proposed in this report are further complemented and supported by other existing and pending City of Hamilton initiatives which seek to protect rental housing and rental housing tenants:

- The Tenant Support Program that will include legal support for tenants through the Landlord Tenant Board, organizing and capacity building for tenant organizations, and broader education for the tenants and landlords on their rights and responsibilities under the Residential Tenancies Act.
- A new Rental Housing Replacement By-law, which will be brought forward for Council’s consideration in Q4 2023.
- A new Short-Term Rental Licensing By-law that seeks to protect existing rental housing stock through the licensing and regulation of short-term rentals, which was approved by Council in 2023 and is set for implementation in Q4 2023.
- The ongoing Rental Housing Licensing pilot project that licenses rental units and regulates property standards in rental units in Wards 1, 8 and parts of 14.

As directed by Council, staff have also prepared a draft By-law, modelled directly on Part 6 of the Municipality of New Westminster’s *Business Regulations and Licensing (Rental Units) By-law*, which is attached as Appendix “K” to Report PED23072, and which is discussed under the Alternatives for Consideration section of this report.

Alternatives for Consideration – See Page 29

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial:

Safe Apartment Building By-law

Based on a review of best practices, the Safe Apartment Buildings By-law is proposed as a 65% cost recovery program.

The total estimated annual cost for this By-law once it is fully up-and-running is \$3,094,350 (\$1,083,023 net levy) broken down as follows:

- \$2,958,000 annually for staffing (\$1,035,300 net levy)
- \$116,350 operating costs (\$40,723 net levy) for thirteen (13) vehicles
- \$20,000 annually (\$7,000 net levy) for outreach, education and communications

In addition to the operating costs, there is a one-time capital cost of \$708,825 for the purchase of 13 vehicles and shared cost of charging station installation.

It is anticipated that the timing of registration revenues will lag behind the implementation of the program. Therefore, staff are recommending the approval of one-time funding to cover program costs during the start-up / transition period. Staff anticipate that the staffing resource needs can be phased over the first 12-18 months of the program, which would be expected to result in cost savings. Therefore, staff are recommending, based on the proposed Transition Plan, that up to \$2,003,441 in one-time costs be referred to the 2024 Budget process.

Renovation Licence and Relocation Listing By-law

The Renovation Licence and Relocation Listing By-law is not proposed as a cost recovery-based program. Given that staff are only aware of the data provided by Housing Services that reflects the number of applications made to the Landlord and Tenant Board related to N-13 notices (132 in 2022), a full cost recovery fee structure would result in significant license costs for property owners which could create a disincentive for property owners to work through the Residential Tenancies Act altogether, thereby further disadvantaging tenants and preventing staff from connecting tenants with essential supports. Based on the recommended Fee Structure attached as Appendix “E” to Report PED23072, it is estimated that annual revenues for the program will be approximately \$94,285, or approximately 10% of program costs.

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The total estimated annual cost of administering the Renovation Licence and Relocation Listing By-law once it is fully up-and-running is \$942,850 broken down as follows:

- \$906,000 for staffing (\$815,400 net levy)
- \$26,850 operating costs for three (3) vehicles (\$24,165 net levy)
- \$10,000 annually for outreach, education and communications (\$9,000 net levy)

In addition to the operating costs, there is a one-time capital cost of \$163,575 for the purchase of 3 vehicles and shared cost of installation of charging stations.

It is anticipated that the timing of the registration revenues will lag behind the implementation of the program. Therefore, staff are recommending the approval of one-time funding to cover program costs during the start-up / transition period. Staff anticipate that the staffing resource needs can be phased over the first 12-18 months of the program, which would be expected to result in cost savings. Therefore, staff are recommending, based on the proposed Transition Plan, that up to \$150,000 in one-time costs be referred to the 2024 Budget process.

Property Standards and Vital Services By-laws

No financial implications, provided that, service levels are maintained at current levels.

Rental Housing Licensing Pilot Project

No financial impacts, provided that, service levels, scope and implementation timeline are maintained at current levels.

Staffing:

Safe Apartment Buildings By-law

Implementation of the Safe Apartment Buildings By-law would require an additional 25.0 Full-time Equivalents (FTEs) in the Licensing and By-law Services, Parking Services and Legal Services Divisions, consisting of:

- One full-time (1.0 FTE) Licensing and By-law Services Manager to oversee program operations.
- One full-time (1.0 FTE) Project Manager to coordinate the program, track measurables and report to Council.
- Two full-time (2.0 FTE) Supervisors of Operations and Enforcement.
- Thirteen full-time (13.0 FTE) Municipal Law Enforcement Officers.

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- One full-time (1.0 FTE) Outreach Coordinator to facilitate on-site tenant education and provide program support.
- One full-time (1.0 FTE) Program Analyst to provide applications support, analyse data and provide program support.
- One full-time (1.0 FTE) Licensing Administrator to administer registration applications.
- Two full-time (2.0 FTE) By-law Clerks to enter files and provide support to enforcement staff.
- One full-time (1.0 FTE) Administrative Secretary to support the administration of management.
- One full-time (1.0 FTE) Solicitor in Legal Services to provide dedicated legal support.
- One full-time (1.0 FTE) Screening Officer in Parking Services to screen Administrative Penalties.

Staffing projections are based on several factors, including extrapolation of staffing numbers utilized in the Mississauga Apartment Rental Compliance and RentSafeTO programs, annual volume of property standards complaints received for purpose-built apartment buildings, and overall age of applicable housing stock in the City of Hamilton.

Staff anticipate that the staffing resource needs can be phased over the first 12-18 months of the program, which would be expected to result in cost savings.

Renovation Licence and Relocation Listing By-law

Implementation of the Renovation Licence and Relocation Listing By-law would require an additional 8.0 Full-time Equivalents (FTEs) in the Licensing and By-law Services, Housing Services and Legal Services Divisions, consisting of:

- Three full-time (3.0 FTE) Licensing Administrators to administer licence applications, enter investigation files and respond to inquiries
- Three full-time (3.0 FTE) Licensing Compliance Officer to enforce the By-law
- One full-time (1.0 FTE) Solicitor in Legal Services to respond to legal challenges and increased Property Standards Committee hearings
- One full-time (1.0 FTE) Housing Clerk in Housing Services to facilitate tenant support/education

Property Standards and Vital Services By-laws

No staffing implications, provided that, service levels are maintained at current levels.

Rental Housing Licensing Pilot Project

No staffing implications, provided that, service levels, scope and implementation timeline are maintained at current levels.

Legal:

Legal Services assisted with the preparation of the appended draft By-laws. It is worth noting that the proposed Renovation Licence and Relocation Listing By-law attached as Appendix “D” to Report PED23072 is the first program of its kind in Canada.

HISTORICAL BACKGROUND

On December 9, 2021, through Report HSC20020(d) – Adaptation and Transformation of Services for People Experiencing Homelessness, approval was granted for up to \$100,000 for Housing Services to hire and retain a consultant to evaluate the feasibility of implementing a By-law in the City of Hamilton, similar to the renovictions By-law previously enacted and currently repealed in the City of New Westminster, British Columbia.

On April 20, 2023, through Report HSC23023 – Renovictions Stakeholder Consultation, Housing Services presented updates to Council on previous directions regarding the issue of Landlord and Tenant renovictions and provided recommendations for next steps by the Municipality.

On April 20, 2023, the Emergency & Community Services Committee passed a motion for staff to report back to the Committee in August 2023, with recommendations on a full suite of options to halt renovictions in the City of Hamilton, including; a RentSafeTO style Tenant Support Program, amendments to various City By-laws, the use of building permits and a city-wide Licensing By-law and a standalone Renovictions By-law, in addition to any potential By-law associated with the review of a Tenant Support Program; and that staff report back on the ability for the Municipality to track sale notices for multi-unit buildings, to monitor trends in this area and create process to inform tenants of their right in case of ownership change.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Staff’s review considered the following applicable Municipal, Provincial and Federal Legislation:

- *City of New Westminster Business Regulations and Licensing (Rental Units) By-law No. 6926, 2004*

- *Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023*
- *Municipal Act, 2001, S.O. 2001, c.25*
- *Community Charter, SBC 2003, c. 26*
- *Ontario Building Code Act, 1992, S.O. 1992, c.23*
- *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4*
- *Residential Tenancies Act, 2006, S.O. 2006, c. 17*

In developing the proposed By-laws, staff considered the scope of Municipal authorities as set out in the *Municipal Act, 2001* which authorizes Municipalities to pass By-laws with respect to the well-being of the Municipality and its inhabitants, as well as the scope and authorities of the *Residential Tenancies Act, 2006, S.O. 2006, c.17*. The Residential Tenancies Act states in section 1 that the purposes of this Act are to provide protection for residential tenants from unlawful rent increases and unlawful evictions, to establish a framework for the regulation of residential rents, to balance the rights and responsibilities of residential landlords and tenants and to provide for the adjudication of disputes and for other processes to informally resolve disputes. In essence, it seeks to regulate the relationship between landlords and tenants. Staff are of the view that the proposed By-laws represent an innovative and first-of-its-kind approach to addressing renovictions, tenant displacement and property standards within the authority of Municipalities.

Public notice of the various By-laws and By-law amendments has been provided in accordance with the City of Hamilton Public Notice Policy By-law 07-351.

RELEVANT CONSULTATION

In preparing the draft By-laws appended to this report and crafting the recommendations and alternatives highlighted herein, the following external parties were consulted:

- ACORN Hamilton
- Hamilton District Apartment Association
- City of Mississauga
- City of Toronto
- City of New Westminster

Internal consultation was also undertaken with the following City of Hamilton divisions and service areas:

- Communications
- Finance & Administration

- Fire Prevention Services
- Housing Services
- Legal Services
- Planning & Economic Development
 - Building
 - Licensing & By-law Services
 - Zoning

Thorough review of the renovictions related feedback provided throughout the Emergency and Community Services Committee meeting on April 20th, 2023 was also undertaken. In particular, staff considered both the Enterprise Report detailed in Appendix “A” to Report HSC23023 and the feedback provided by delegates to the meeting.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

In April 2023, Licensing and By-law Services staff were directed by Council to report back in August 2023, with a full suite of options to halt renovictions in Hamilton. In researching the best approaches to respond to Council’s direction, it is clear that a “made in Hamilton” approach must help support tenants experiencing renovictions and close gaps in applicable provincial legislation in the short term, while ensuring that building standards are maintained and substandard building conditions are improved in an effort to reduce the likelihood of a renoviction occurring in the long term. Through this report, such an approach is detailed, including a full suite of options that fall within the scope of the Municipality to address renovictions, tenant displacement and property standards in apartment buildings.

The City of Hamilton is experiencing an affordable housing crisis with average market rents having far outpaced inflation over the last number of years. This has created a significant impact on long term tenants in rent-controlled units whose rents remain below current market rent levels in Hamilton, as there is now significant economic incentive for landlords to have tenants move out so that they are able to increase the rents on the vacated units to market rent levels. Further, Hamilton has an aging housing infrastructure, which creates significant barriers to ensuring safe, adequate and suitable housing for the approximately 72,000 rental households in Hamilton and contributes to tenants’ vulnerability to renoviction.

A renoviction is most often defined as a situation where a tenant is formally evicted (through the legal process prescribed in the Residential Tenancies Act, which is initiated when a landlord issues a tenant an N-13 notice of eviction) or informally evicted (without going through the proper legal process) because the landlord needs to make repairs or renovations to the rental unit or rental property that cannot be completed while the

tenant is continuing to live in the unit. Situations where a tenant is driven out of their home because the repairs and renovations are making their home uninhabitable, and situations where a tenant is driven out of their home as a result of severe disrepair that makes their home uninhabitable (failure of landlord to adequately maintain the rental unit and/or rental property) are not technically renovictions because they are not being driven by an N-13 notice, but they have the same result, that being displacement of the tenant. This report addresses all three forms of renoviction.

The Residential Tenancies Act allows for eviction in situations where a landlord proposes repairs or renovations to the rental unit that are so extensive that they require a building permit and vacant possession of the rental unit. The Residential Tenancies Act protects tenants from “permanent renoviction” by giving tenants a right of first refusal: the option of moving back into the rental unit once the repairs or renovations are complete, at a rate that is no more than what the landlord could have charged if there had been no interruptions to the tenant’s tenancy, but makes no provision for any short-term accommodation for tenants who exercise their right of first refusal. Under the Residential Tenancies Act, when the repairs and renovations proposed by the Landlord are “voluntary”, tenants who do not wish to return to the rental unit are entitled to compensation or an alternative rental unit, meaning that the landlord can increase the rental price by re-renting the unit to another tenant at a higher rent at the completion of the repairs or renovations. This legal justification for eviction (repairs or renovations) creates a legal opportunity for those landlords who, in bad-faith, wish to increase their rent by evicting a tenant in a rent-controlled unit with the hope that such tenant does not return.

As this situation exists in provincial legislation affecting tenancies across the Province, the issue of renovictions is not a Hamilton-only problem; not only is it an issue in every Ontario Municipality where there are long-time tenants that are paying significantly lower rents than the current market rent levels in a community, but research indicates that it is a problem in many other Canadian provinces and American states with similar residential tenancy legislation. Importantly, no Municipal jurisdiction has found a “silver bullet” to solve what is effectively a problem born out of the real estate market and gaps in provincial or state legislation. Instead, Municipalities that aim to address renoviction generally employ multiple methods simultaneously, involving a variety of policies and programs across a number of Municipal divisions and the participation of civil society organizations that provide tenant support.

The Housing Sustainability and Investment Roadmap was passed by City Council in April 2023 (Report HSC23028). The Roadmap was developed as a “whole-of-Hamilton” approach focused on tangible actions and Municipal strategies to respond to affordable housing issues. The Roadmap identified four pillars of activity: 1) new construction; 2) acquisition of existing affordable housing, land, or under-utilized buildings; 3)

preservation of existing affordable rental housing (and community housing); and 4) increasing housing with supports. This report is focussed on addressing the third pillar.

One of the key findings of the Roadmap's background research was that over the past decade, Hamilton is losing 23 affordable rental units for every new affordable unit that has been built. In fact, over the past decade, the City of Hamilton has lost almost 16,000 rental units that had rent below \$750/month (affordable for a household with an income of \$30,000/year). Many of these units still exist, but rents have increased due to inflation, vacancy decontrol, or renovation and above-guideline rent increases/evictions – or 'renovictions'.

The third pillar of the Roadmap focuses on preservation of existing affordable rental housing through a number of strategies and actions, including developing policies to protect rental housing and discouraging renovictions. Specifically, the Roadmap states: "one of the best strategies to maintain affordable rental units is to enable and encourage tenants in stay in place". A priority action for Year 1 of the Roadmap is to "work with community organizations to develop a city-wide response to addressing tenant concerns and issues (including responses to 'renovictions') and designing a city-wide campaign to ensure tenants know their rights to stay in their homes".

Data provided by Housing Services suggests that, of the N-13 notices (notices to evict for demolition, conversion, repair or renovation of the rental unit) served by landlords on their tenants in the City of Hamilton in 2022, approximately 132 resulted in L2 applications, being applications made by the landlord to the Landlord and Tenant Board to end a tenancy and evict a tenant. The outcome at the Landlord Tenant Board for these applications is unknown to City Staff. This number reflects a significant overall increase in applications received in 2021.

In addition to rental units found in purpose-built apartment buildings, Hamilton has approximately 40,000 rental units located in single detached, townhouse/row housing, or duplexes. These units are difficult to connect with, as they exist in various forms (including secondary dwelling units) and are integrated into neighbourhoods across Hamilton. These units are also at highest risk of being lost to the rental market through private sale to new owners who may utilize the property for personal use – a situation that is difficult to address at the Municipal level.

It is important to note that not all instances of tenant displacement due to renovation are completed in bad faith. In some cases, vacant possession is required to maintain the quality of residential units. However, in all cases, tenants have the right to return to the unit once repair or renovation are completed at the same rent as they had been paying prior to eviction, yet many barriers exist that prevent tenants from being able to do so. It remains true that in all cases, tenants must be aware of their rights, that displacement

(especially permanent displacement) must only occur as a last resort, and that tenant disruption and harm be minimized.

To address these issues, this report is proposing a Hamilton Apartment Rental Program that comprises four separate, but interconnected new initiatives to address renovictions, tenant displacement and property standards in apartment buildings in the City of Hamilton:

- a new “Safe Apartment Buildings By-law” to regulate apartment building property standards and registration of apartment buildings.
- a new, first-of-its-kind in Canada, “Renovation Licence and Relocation Listing By-law” to regulate repairs and renovations to rental units.
- updates to the City’s Vital Services and Property Standards By-laws to better regulate the supply of vital services and to prescribe standards for the maintenance and occupancy of rental properties.
- amendments to Schedule 31, Rental Housing, of the Business Licensing By-law No. 07-170 to extend the current rental housing licensing pilot project to include rental properties of 5 units or less (rather than the current 4 units or less), within the same geographic areas of the pilot project.

The Hamilton Apartment Rental Program also relies heavily on the proposed Tenant Support Program. Under the Residential Tenancies Act, the burden of preventing eviction is placed on the tenant. Given that the tenants most vulnerable to renoviction are often the city’s most vulnerable residents, with the least financial means, physical and technological capacity and literacy, tenant education and support are paramount in any and all efforts to address renoviction.

The Hamilton Apartment Rental Program (combined with the proposed Tenant Support Program) represent the City’s best effort to utilize all available levers to address renoviction (thereby improving housing security for tenants and preventing homelessness, preserving existing rental housing stock and rental housing affordability, and ensuring the City’s rental housing stock is and remains in a state of good repair).

The Hamilton Apartment Rental Program is best understood as a homelessness prevention and affordable housing preservation program, as it is anticipated that this program will have the most significant impact on people who are currently most vulnerable to renoviction: low-income people who are at high risk of homelessness and who currently occupy affordable and deeply affordable rental units – often in a poor state of repair – that will be lost upon vacancy when the rent is raised to current market rent levels.

The program aims to keep tenants from moving out unnecessarily when landlords need to make repairs or renovations that can't be completed with the tenant continuing to occupy the unit. Although under the Residential Tenancies Act, tenants in these situations have the right to return to the unit once renovations are complete, once a tenant moves out, there are many potential obstacles to the tenant moving back in. Therefore, the most effective way to prevent homelessness and preserve housing affordability is to prevent tenants from moving out at all. The Hamilton Apartment Rental Program works to prevent tenants from needing to move out unnecessarily for renovations and repairs, but also as a result of informal eviction attempts and unit uninhabitability by:

- discouraging the unnecessary use of N-13 eviction notices by imposing fees, requirements, and potential penalties related to the renovation works;
- ensuring that tenants who receive N-13 eviction notices understand their rights and know how to and are able to access information, documentation, resources and support to prevent eviction when repairs and renovations can be completed while they continue to occupy their unit;
- strengthening the City of Hamilton's ability to enforce property standards so that tenants are less likely to need to vacate their units as a result of disrepair or lack of vital services;
- ensuring that tenants understand their rights and are able to successfully secure remedies for disrepair and lack of vital services; and
- discouraging building neglect that results in building conditions that could lead to future renoviction.

Where renovations and repairs cannot be completed while the tenant continues to occupy the unit, the Hamilton Apartment Rental Program aims to support tenants in ensuring they can access a comparable alternative rental unit that they can afford, so that they aren't rendered homeless while their unit undergoes repairs or renovations, and in ensuring tenants are able to move back into their unit once repairs and renovations are complete by:

- requiring landlords to provide tenants with a list of available units that are comparable in location, size and rent;
- ensuring tenants understand their right of first refusal and that tenants who wish to return to their unit once repairs are complete give their landlord the necessary written notice (as per the Residential Tenancies Act) that permits them to exercise their legal right to reoccupy the unit; and
- ensuring tenants understand their rights and know how to and are able to access support in legally moving out of their temporary accommodation and returning to their original rental unit.

While investment in this program is significant, the financial costs the City of Hamilton may incur as a result of tenant displacement, increased homelessness, lost affordable rental housing, and worsening housing unaffordability would likely be significantly higher. For example, research demonstrates that it is significantly more expensive to provide a person with homelessness supports than it is to support a person in maintaining their tenancy, and it is significantly more expensive to create new affordable housing than it is to preserve existing affordable housing. In addition, there are considerable non-financial costs associated with both increasing homelessness and loss of affordable rental housing affordability that are difficult to quantify. This is a situation where upstream investment will prevent much larger downstream impacts that have proportionately larger societal and financial implications.

1. Safe Apartment Buildings By-law

Staff were directed by Council to report back with recommendations that include the creation of a RentSafeTO style program and any required associated By-laws. As such, staff completed a jurisdictional Municipal scan and determined that similar programs operate in both the City of Toronto (RentSafeTO) and Mississauga (Mississauga Apartment Rental Compliance Program). Consultation with both Municipalities took place, with discussions around program scope, costing, staffing, operations and enforcement, strengths and areas of opportunity, etc. Based on this best practice review, staff have proposed a Safe Apartment Buildings By-law that has been modelled after features drawn from the aforementioned programs.

The proposed Safe Apartment Buildings By-law will help maintain existing building standards and improve substandard building conditions City wide, which is expected to contribute to reducing renovictions as a long-term outcome, as buildings would be required to be kept in a state of good repair and the likelihood of requiring a renovation with vacant possession would be reduced. Property owners would be required to develop a State of Good Repair Plan for capital elements requiring renovation and post the updated document on the Tenant Notification Board located in common areas. As such, tenants will also be better informed regarding pending major repairs to their buildings that may be required and better equipped to engage tenant supports in those situations. The proposed program will ensure that building conditions are sustained/improved, thereby preventing the frequency of N-13 notices being issued for unexpected major repairs in the future. Property owners would also be required to develop a pest management plan for the apartment building. This new requirement would present an opportunity for By-law enforcement to better respond to pest matters, and also to transition lead enforcement for pest control from Public Health to the Licensing and By-law Services Division as part of the expanded By-law enforcement team. Finally, the proposed program will help to improve communication between the

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City of Hamilton, tenants and property owners and ensure that issues are resolved in a more timely and effective manner.

The general approach of the proposed By-law is to put in place a program for regularly evaluating and inspecting purpose-built rental apartments, and educating tenants, so that property standards concerns can be identified early and on a regular, proactive basis. The main elements of the proposed By-law can be summarized as follows:

- Requirement for all purpose-built apartment buildings 2 storeys or greater and 6 units or more to obtain a licence to operate, with a mandatory annual fee based on number of units (details provided in the Fee Schedule attached as Appendix “B” to Report PED23072).
- Apartment building owners must submit an application along with required supporting documentation, including but not limited to;
 - (i) Integrated Pest Management Plan
 - (ii) Waste Management Plan
 - (iii) Cleaning Plan
 - (iv) State of Good Repair Plan
 - (v) Electrical Maintenance Plan
 - (vi) Vital Service Disruption Plan
- a registration certificate will be issued upon submission of a complete application and fee payment.
- registered buildings will be evaluated within 18 months after the application intake deadline and will be scored based on weighted evaluation criteria.
- evaluations will score property standards (exterior and common areas) and compliance with program standards identified in the Safe Apartment Buildings By-law.
- evaluation scores define when subsequent evaluations will take place (i.e. as shown in “Table One” below, all buildings will be evaluated at least every three years, with lower scoring buildings being evaluated more frequently).
- scoring details will be posted on Tenant Notification Boards in common areas of buildings and available to the public online.
- during the evaluation process, City staff will conduct on-site engagement of tenants regarding program details, applicable By-law education, processes for how to submit complaints to the City of Hamilton around interior property standards concerns, etc.
- for buildings that score 50% or lower, a comprehensive audit inspection will take place at the property, and engagement with tenants will occur via “door knocking”

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at all stages of the program, any property standards violations that are identified would be subject to fines and Orders.

Table One: Safe Apartment Building By-law Scoring System

Score (/100)	Audit Required (Yes/No)	Door Knocking (Yes/No)	Subsequent Evaluation
85% or higher	No	No	3 years from evaluation date
51%-84%	No	Yes	2 years from evaluation date
50% or lower	Yes	Yes	Audit triggered. 1 year from evaluation date

In part, the program scope was developed in consideration of the scope utilized by comparator programs in other Municipalities (RentSafeTO and Mississauga Apartment Rental Compliance Program). Specifically, the RentSafeTO program utilizes a program scope of purpose-built apartment buildings with 3 storeys and 10 units or more compared to the Mississauga Apartment Rental Compliance Program, which utilizes a program scope of purpose-built apartment buildings with 2 storeys and 6 units or more. Staff opted to recommend a broader program scope to ensure that the greatest volume of units fall within scope of the program, and in consideration of the anecdotal evidence provided that reflects that renovictions are largely occurring in smaller buildings and dwellings.

Based on data provided by internal staff, there are an estimated 858 buildings in Hamilton with at least 2 storeys and 6 units or more. Approximately 47,816 units are represented by that number of buildings.

Licensed lodging houses, residential care facilities, long-term care homes, licensed retirement homes, and housing co-operatives are out of scope for the program as they are regulated under separate By-laws and licensing schedules. Condominium buildings are also outside the scope for the program given their ownership structure.

Transition

As with the introduction of any new By-law, there is an initial period of preparation, education, and consultation regarding operational regulations, internal administrative organization, including hiring and system modifications. The Transition Plan and timelines are attached as Appendix “C” to Report PED23072.

The Transition Plan will begin with hiring and training staff to administer the program. Once the required staff are in place, a public awareness and engagement campaign will be launched that will explain the regulations to landlords and tenants and impose a deadline to make application. Staff will work with Communications to establish a presence on the City of Hamilton website to provide information and guidelines for applications, develop a dashboard and evaluation application for internal use and reporting, and develop evaluation/weighting criteria.

Staff are recommending that the By-law be adopted following the 2024 Budget process. Based on a By-law adoption date of May 1, 2024, staff anticipate that the registration deadline would be September 2025, with building evaluations beginning at that time. Staff anticipate that all apartment buildings would be inspected and evaluated by February 2027 at least one time.

Enforcement

The proposed program will utilize a proactive enforcement approach in terms of inspecting and evaluating registered properties. A reactive enforcement approach will be utilized to respond to complaints submitted relating to interior property standards issues. Outside of the evaluation process, officers may attend proactively at their discretion.

Officers may issue orders upon observation of a violation of the City's By-laws. If a property owner fails to ensure that compliance with an Order is achieved, subsequent enforcement and addition of fees may take place. Where a contractor is required to attend to bring a property into compliance with an Order, fees will be added to the property tax roll as appropriate.

Costs to Landlords

The overall cost of the program to landlords is limited to the cost of an annual registration fee, which is based on the number of units at a given property as described in Appendix "B" to Report PED23072. For example:

- an apartment building of 10 units would pay a registration fee of \$420.60 (plus HST).
- an apartment building of 50 units would pay a registration fee of \$2,103 (plus HST).
- an apartment building of 100 units would pay a registration fee of \$4,206 (plus HST).

It is important to note that costs may vary based on evaluation results that may trigger an audit, and subsequent enforcement that may arise as a result of any Orders that are issued where compliance is not achieved.

Risks and Challenges

It is important to highlight that there are potential risks and challenges associated with adopting a Safe Apartment Buildings By-law. Due to time constraints in drafting the report to come back to Committee in August 2023, no consultation with the community has taken place outside of limited meetings with the Hamilton District Apartment Association and ACORN Hamilton. This limited consultation may create potential concerns for residents and other community stakeholders who may have desired an opportunity to participate in the process.

Further, the introduction of programs and fees that are associated with the By-law may result in unintended consequences, including:

- Increased frequency of Above Guideline Increase applications at the Landlord and Tenant Board and overall increases to rent, although staff have attempted to combat this by proposing a 65% cost recovery program; or
- Short- or long-term loss of rental stock related to additional regulations and fees.

Finally, it is important to note that a program of this scope will require significant hiring and training of staff and demands on internal staff across the City. The timelines that are highlighted in the Transition Plan attached as Appendix “C” to Report PED23072 are based on both staff’s ability to fill the required positions within the identified timeframes and prioritization of the required work across the corporation.

2. Renovation Licence and Relocation Listing By-law

Staff were directed by Council to report back on a City-wide Licensing By-law and a New Westminster, B.C. style standalone Renovictions By-law. Staff are recommending that the City of Hamilton adopt the Renovation Licence and Relocation Listing By-law attached as Appendix “D” to Report PED23072. In drafting the By-law, consideration was given to the differences between provincial legislation in British Columbia and Ontario. The proposed regulations take a reasonable and complimentary approach to the Residential Tenancies Act and draw on applicable provisions from the New Westminster By-law, while ensuring that regulations are within the scope of Municipal authority. Appendix “L” to Report PED23072 compares the staff recommended Renovation Licence and Relocation Listing By-law with the now-repealed Part 6 New Westminster By-law.

Ontario Municipalities do not have the same express statutory authority as New Westminster or other British Columbia Municipalities. Not only must the approach taken by an Ontario Municipality be sourced in the authority of the *Municipal Act, 2001*, it must also not conflict with provincial law, including the *Residential Tenancies Act, 2006*.

Should Council wish to adopt substantially the same regulations as Part 6 of the By-law in New Westminster, namely that a landlord be required to either provide a tenant with a comparable unit within the same building on the same or better terms, or arrange for temporary accommodation during the renovation and honour the original tenancy agreement, it may result in a conflict with the termination provisions of the *Residential Tenancies Act, 2006*.

The proposed Renovation Licence and Relocation Listing By-law adopts a number of the aspects of the New Westminster By-law in a form that is enforceable under Ontario law. Overall, the proposed approach is to require landlords to obtain a license from the City of Hamilton for renovation works that will require an N-13 notice to a tenant. While not prohibiting the issuance of the N-13 notice, the proposed By-law would create a mechanism wherein the City would be informed of an N-13 notice, triggering the ability to provide information to tenants regarding their rights.

The major aspects of the By-law can be summarized as follows:

- The By-law would apply to all rental units in the City of Hamilton.
- Upon issuance of an N-13 notice to a tenant, property owners would have to obtain a Renovation Licence for the intended renovation works from the Municipality within seven days.
- A complete application with supporting documentation and fee payment must be made prior to issuance of the Renovation Licence.
- The application for a Renovation Licence must include supporting documentation such as a Building Permit number, report from a qualified person (engineer) that states that vacant possession is required to complete the renovation, and confirmation of three active listings for tenants who require alternative accommodations.
- A property owner may be subject to enforcement where an application for a licence is not made within the required timeframe, repairs are conducted without a licence, or a licence holder fails to meet the terms and conditions of the licence.

Transition

As with the introduction of any new By-law, there is an initial period of preparation, education, and consultation regarding operational regulations, internal administrative organization, and system modifications. The Transition Plan and timelines are attached as Appendix “F” to Report PED23072.

The Transition Plan will begin with hiring and training staff to administer the program. Once required staff are in place, educational materials will be developed, and a public awareness campaign will be launched that will explain the regulations. Staff will work with Communications to establish a presence on the City of Hamilton website to provide information and guidelines for licence applications, as well as developing the administration process.

Staff are recommending that the By-law be adopted following the 2024 Budget process. Based on a By-law adoption date of May 1, 2024, staff anticipate that the program will be able to begin accepting and requiring applications for Renovation Licenses by January 2025.

Enforcement

Enforcement of the proposed program will be based on a predominantly reactive approach, as staff must receive either a formal complaint from a tenant who has been/may be issued an N-13 notice or be in receipt of an application for a Renovation Licence. Officers will use their discretion to issue Orders to obtain compliance, and fines may follow for non-compliance.

Through enforcement of the By-law, officers may investigate whether compliance has been achieved in situations where: an application for a renovation licence may not have been made within the appropriate time frame, where supporting documentation has not been submitted or is incomplete, and/or where an officer determines that a licence holder has not complied with the terms of the licence. However, an officer cannot evaluate an expert report indicating that vacant possession is required. Assuming that the report is submitted by a qualified person per the By-law, the requirement will be deemed to have been met by the applicant.

The proposed By-law does not prevent the issuance of an N-13 notice or intervene in areas which fall under the scope of the Landlord and Tenant Board, including situations where the processes around issuance of an N-13 notice were not followed. However, should tenant inquiries fall outside of the scope of the program, staff will connect residents with Housing Services to educate and advise of their rights under the *Residential Tenancies Act*.

Costs to Landlords

The recommended cost to landlords for an application for a Renovation Licence is \$715. An application is required for each unit where an N-13 notice has been issued to a tenant. The cost of the application was developed on a 10% cost recovery model. Utilizing a model with increased cost recovery may result in detrimental impacts to tenants, including downloading of costs to tenants by way of applications for Above Guideline Increases to rent, circumvention of the established process for obtaining vacant possession of a unit (i.e. failure to issue N-13 notice altogether), and decreased availability of rental housing stock as property owners opt to sell properties that may be utilized for personal use.

Staff are recommending a lower cost recovery ratio for this By-law, in order to mitigate against potential unintended consequences, such as:

- Incentivizing the issuance of N13 notices during the transition period, in order to avoid the costs of complying with the City's By-law.
- Loss of rental stock as property owners opt to sell properties due to high costs of compliance, with the possibility that buyers will convert properties back to owner-occupied dwellings.
- Influx of applications to the Landlord Tenant Board for above guideline increases.
- Discouraging investment in new rental properties.

Risks/Challenges

It is important to highlight that there are potential risks and challenges associated with approving the Renovation and Relocation Listing By-law. Due to time constraints in drafting the report, no consultation with the community has taken place outside of limited meetings with the Hamilton District Apartment Association and ACORN Hamilton. This limited consultation may create potential concerns for residents and other community stakeholders who may have desired an opportunity to participate in the process.

The proposed By-law is a first-of-its-kind in Canada. As such, the program may be subject to legal challenge. It is also possible that City staff could be subpoenaed to the Landlord and Tenant Board to speak to the requirements of the By-law and the information that led to the issuance or denial of a Renovation Licence. Both the landlord and the tenant will likely rely on the prescribed qualifications report, that requires vacant possession, at the Landlord and Tenant Board.

Staff anticipate that Bill 97 will likely be proclaimed by the provincial government in the Fall of 2023, and this may have a direct impact on the proposed By-law. At this time,

staff have relied on language about “prescribed qualifications” that are undefined in Bill 97 but have been defined in our By-law as being an Engineer, pending the creation of a definition by the Province. At that time, this By-law can be amended to reflect the definition adopted by the province. Staff cannot anticipate how the province will define a qualified person. The proposed By-law defines a qualified individual and requires that someone with professional qualifications provide a report in order to issue a Renovation Licence. Should the Province define the qualified person differently than the Municipality, the By-law will need to be amended or will be challenged as Municipal and provincial pathways cannot yield two opposing results.

It is also important to note that a Renovation Licence will be required whether the renovation is being done voluntarily by the landlord, or in response to a City Order. As staff will be conducting inspections of buildings, to ensure there are minimum maintenance standards, there is a higher likelihood that property owners will be obliged to undertake repairs as a result of Orders issued by the City. As a result, tenant protection offered under Section 54 of the *Residential Tenancies Act, 2006* with respect to compensation or another accommodation would not be triggered. The Residential Tenancies Act only provides compensation or the possibility of alternate accommodation when the repairs or renovations are voluntary. Property Standards Orders requiring work to be performed would not constitute voluntary repairs and accordingly would not attract the statutory “benefits” (compensation or the possibility of another accommodation) found in section 54 of the Residential Tenancies Act.

Lastly, staff anticipate that this By-law could raise expectations with respect to the role of the City in resolving landlord / tenant disputes. For example, City staff cannot arrange housing solutions or oblige a property owner to arrange alternate accommodations beyond providing active comparable rental listings. A requirement of the Renovation Licence and Relocation Listing By-law will stipulate that a landlord must provide comparable active listings to a tenant in certain situations. Given the current rental market in Hamilton, situations may arise where there are either insufficient or no listings to meet this requirement of the By-law. Furthermore, City staff cannot mediate or evaluate landlord / tenant disputes. The City’s role is limited to ensuring that the conditions of the By-law have been met.

3. Rental Housing Licensing Pilot Project

Through staff’s review of the options available to address renovictions, tenant displacement, and property standards in apartment buildings, areas of opportunity for improvement in the existing Rental Housing Licensing pilot program were identified. As such, minor amendments to Schedule 31, Rental Housing of the City of Hamilton Business Licensing By-law No. 07-170 have been proposed, including:

- Change to the scope of the program to capture buildings of 5 units or less, instead of the current requirement of buildings of 4 units or less, in order to ensure all rental housing units are captured either through the Rental Housing Licensing pilot program (5 units or less) or the new Safe Apartment Buildings By-law (6 units or more); and
- Adding a requirement for property owners to communicate change in ownership information to City staff within 7 days.

4. Property Standards and Vital Services By-laws

As part of the research and analysis for this report, staff also reviewed and considered potential enhancements to the City's existing Property Standards and Vital Services By-laws to better protect tenants. In part, this review responds to concerns that were raised and experienced as a result of recent circumstances at 1083 Main Street East.

On December 28, 2022, due to exposure to freezing temperatures, the plumbing system located at 1083 Main Street East experienced significant damage that resulted in the building's water being shut off to avoid further damage. During this time, Hamilton Water began providing potable water to residents. On January 5, 2023, a Property Standards Order pursuant to the *Building Code Act, 1992* was issued to the property owner to repair or replace the plumbing system with a set compliance date of January 24, 2023. The Order was appealed by the property owner requesting more time to complete the work. Ultimately, the City of Hamilton Property Standards Committee convened and confirmed the Property Standards Order.

The City's Property Standards By-law was the most effective means to have water services restored to tenanted units. However, the Property Standards By-law, being passed pursuant to *Ontario's Building Code Act, 1992*, provides a 14-day appeal period. An appeal was delivered by the Property Owner requesting more time, delaying potential enforcement action until the appeal could be heard by the Property Standards Committee.

Staff conducted a jurisdictional scan of comparable Ontario Municipalities to identify any potential By-law improvements that could prevent prolonged cessation of a vital service from re-occurring. Numerous Municipalities had similar Vital Services By-laws, and all were passed on the basis of the powers set out in the Residential Tenancies Act; however, some Municipalities have expanded upon definitions and provisions to allow for better enforcement actions.

In response to this review, staff are recommending a number of changes to the City's Vital Services By-law:

- Enhanced definitions and provisions to facilitate enforcement, including expanded definitions for what is adequate/suitable provision of each vital service type and property owner vs. operator;
- Introduction of electronic service as a means of serving an Order. In the situation that transpired at 1083 Main St E, electronic service may have allowed staff to save crucial time vs. serving an Order by other available options. Additionally, if the Safe Apartment Buildings By-law is approved, it is likely that electronic service will be an even better option as applicants/licence holders will be required to provide an email where available.
- Expansion of the provision for recovery of costs where the City is responsible for providing a vital service on behalf of the property owner, such as was the case with the provision of water at 1083 Main Street.

Staff also undertook a review of City of Hamilton By-law No. 10-221 (the “Property Standards” By-law). This By-law prescribes the standards for the maintenance and occupancy of property in the City of Hamilton and authorizes it to charge fees for services and activities as pursuant to the *Building Code Act, 1992*. A holistic review of the City of Hamilton Property Standards By-law No. 10-221 was undertaken, including evaluation with Municipal comparators. While no substantive changes are being proposed, the By-law attached as Appendix “H” to Report PED23072 has been restructured to improve ease of flow and “readability” for users.

5. Other Matters

Tracking Sale for Multi-unit Buildings

Through the recommendations detailed in Report PED23072, staff have ensured that sale of multi-unit buildings that fall under the scope of either the Safe Apartment Buildings By-law or the Rental Housing Licensing Pilot Program will be communicated to the City within seven days of sale. Within 48 business hours of receiving notification of a building sale, Licensing and By-law Services staff would then be able to share the notification information with the Tenant Support Program in the Housing Services Division.

Building Permits

In consultation with the Building Division regarding the use of Building Permits to halt renovictions, they advised that prior to issuance of a permit, an applicant must comply with “applicable law” which is defined in Div. A 1.4.1.3. of the *Building Code*, to which

there is no applicable law outlined that would justify withholding a Building Permit due to an instance of renoviction.

Due to this, the Building Division would not require eviction as a condition of a permit; however, if the proposed scope of work is a renovation, there may be occasions where the building may remain occupied (or partially occupied), and in those cases, if it is known, they may require a phasing plan or other considerations to ensure the building is safe for occupancy during construction.

6. New Westminster By-law

As directed by Council, staff have also prepared a draft By-law, modelled directly on the Municipality of New Westminster's renovictions By-law, which is attached as Appendix "K" to Report PED23072, and which is discussed under the Alternatives for Consideration section of this report.

7. Other Related City Initiatives

The new By-laws and By-law amendments proposed in this report are further complemented and supported by a number of existing and pending City initiatives which seek to protect rental housing and rental tenants:

- Tenant Support Program – which will include legal support for tenants through the Landlord Tenant Board, organizing and capacity building for tenant organizations, and broader education for the tenants and landlords on their rights and responsibilities under the Residential Tenancies Act.
- Rental Housing Replacement By-law – will be brought forward for Council's consideration in Q4 2023.
- Short Term Rental Licensing By-law – which seeks to protect existing rental housing stock through the licensing and regulation of short-term rentals, which was approved by Council in 2023 and is set for implementation in Q4 2023.
- Rental Housing Licensing pilot project – which licenses rental units and regulates property standards in rental units in Wards 1, 8 and parts of 14.

ALTERNATIVES FOR CONSIDERATION

Alternative One: New Westminster By-law

Rather than adopting the recommended “Renovation Licence and Relocation Listing By-law”, Council could consider adopting the draft By-law attached as Appendix “K” to Report PED23072, “Repairs and Renovations By-law” which encompasses the complete provisions drawn from Part 6 of the *Business Regulations and Licensing (Rental Units) By-law* from New Westminster, British Columbia. It is the opinion of staff that this By-law would not withstand legal challenge in Ontario and would also present challenges with respect to its operation and enforcement.

Should Council consider adopting the draft By-law attached as Appendix “K” to Report PED23072, implementation of the “Repairs and Renovations By-law” would require the following staffing:

- (i) Three full-time (3.0 FTE) Licensing Administrators in the Licensing and By-law Services Division to administer licence applications, enter investigation files and respond to inquiries, at an estimated total cost of \$287,000 annually (\$258,300 net levy);
- (ii) Three full-time (3.0 FTE) Licensing Compliance Officer in the Licensing and By-law Services Division to enforce the By-law, at an estimated total cost of \$327,000 annually (\$294,300 net levy);
- (iii) One full-time (1.0 FTE) Solicitor in Legal Services to respond to legal challenges and increased Property Standards Committee hearings, at an estimated total cost of \$212,000 annually (\$190,800 net levy);
- (iv) One full-time (1.0 FTE) Housing Clerk in the Housing Services Division to facilitate tenant support/education, at an estimated total cost of \$80,000 annually (\$72,000 net levy);
- (v) The purchase of three (3) vehicles at an estimated initial cost of \$163,575 and an annual operating cost of \$26,850 (\$24,165 net levy);
- (vi) An outreach, education and communications budget of \$10,000 annually (\$9,000 net levy); and
- (vii) A one-time cost of \$150,000 to fund the transition period for the implementation of the By-law.

Alternative Two: Immediate Adoption of “Safe Apartment Buildings By-law” and “Renovation Licence and Relocation Listing By-law”

Given the significant cost and staffing impact associated with these two By-laws, staff are recommending that they be referred to the 2024 Budget process so that they can be considered alongside other Council priorities. Should Council wish to consider immediate implementation, Council would need to direct that all of the costs and staffing implications be reflected in the 2024 Budget, and the costs for the program between now and the start of the 2024 Budget would need to be covered through an appropriate Reserve. Should Council opt to initiate the By-laws immediately, implementation of the Transition Plans attached as Appendixes “C” and “F” to Report PED23072 would be modified to commence immediately, with the timeframes referenced in the Transition Plan still applying.

Immediate initiation of the program would result in a significant impact to other work being undertaken by the Licensing and By-law Services Division, including but not limited to Short-Term Rental Licensing implementation, Digital Sign By-law, etc.

Alternative Three: Expansion of Rental Housing Licensing Pilot Program

The current Rental Housing Licensing Pilot Program addresses rental properties of four units or less. Through this report, staff are recommending that this be modified to properties of five units or less. Staff are not recommending changes to the geographic scope of the pilot program at this time. The current Rental Housing Licensing Pilot Program is targeted to end on December 31, 2025. An update to Council on the status of the Rental Housing Licensing Pilot Program was most recently provided through Report PED21097(d) at Planning Committee on June 13, 2023.

Council could consider immediate city-wide expansion of the Rental Housing Licensing Pilot Program. Should Council wish to pursue this alternative, staff would need to report back to Planning Committee in Q4 2023 detailing the staffing, financial and implementation requirements. Immediate expansion of the program would result in a significant impact to other work being undertaken by the Licensing and By-law Services Division, including but not limited to Short-Term Rental Licensing implementation, Digital Sign By-law, etc.

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

Appendix “A” to Report PED23072 – Draft Safe Apartment Buildings By-law

Appendix “B” to Report PED23072 – Safe Apartment Buildings By-law – Fee Schedule

Appendix “C” to Report PED23072 – HARP Safe Apartment Standards Program
Transition Plan

Appendix “D” to Report PED23072 – Draft Renovation Licence and Relocation Listing
By-law

Appendix “E” to Report PED23072 – Renovation Licence and Relocation Listing By-law
– Fee Schedule

Appendix “F” to Report PED23072 – Renovation Licence and Relocation Listing By-
law- Transition Plan

Appendix “G” to Report PED23072 – Draft Vital Services By-law

Appendix “H” to Report PED23072 – Draft Property Standards By-law

Appendix “I” to Report PED23072 – Draft Amending By-law to amend Licensing By-law
No. 07-170, Schedule 31, Rental Housing

Appendix “J” to Report PED23072 – Draft Amending By-law to amend Administrative
Penalties By-law No. 17-225

Appendix “K” to Report PED23072 – Draft Repairs and Renovations By-law

Appendix “L” to Report PED23072 – New Westminster vs City of Hamilton
Recommendation Alignment Table

GB:ch