



May 31, 2024

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Her Worship Mayor Andrea Horwath
and Members of Hamilton City Council
Hamilton City Hall
2nd Floor – 71 Main Street West,
Hamilton, Ontario L8P 4Y5

Dear Madam Mayor and Members of City Council:

Re: Adequate Temperature By-law

The Hamilton and District Apartment Association (“HDAA”) is an association of residential property owners, managers and suppliers, and we represent the interests of private sector Rental Housing Providers in excess of 30,000 rental units throughout Hamilton, Burlington, Brantford, Guelph, Mississauga, Oakville, St. Catharines and into the Niagara Peninsula. The term “Residential Rental Housing Providers” comprises of some corporations that owns thousands of rental units, to other small business owners (i.e. electrician, accountants, teachers and etc.) that manages a rental property from one to five rental units, while working full-time. HDAA cares about our industry and encourages compliance with legislation and best practices to ensure our Tenants are provided with the best customer experience possible.

It is acknowledged that extreme heat (often called “heat waves”) is an issue due to climate change, and it can affect seniors, low-income tenants, people with disabilities and that are homeless - as indicated in the Public Health Committee Meeting Report (May 15, 2023) and in subsequent City Staff Reports including from other subject-matter experts, to present date.

Although there is merit for discussing, developing, and with well-intentions to implementing the Adequate Temperature By-law thus far, City Council should be more cognizant if not already, of any unintended consequences, and also other considerations as stated below, with respect to Landlords and Tenants for Residential Rental Properties, when voting at the next Public Health Committee Meeting on June 3rd, 2024.

Already enhanced Tenant’s rights and protections to install air conditioning in their units, in Bill 97 Helping Home Buyers, Protecting Tenants Act (“HPPA”)

Bill 97 makes some significant changes to the Residential Tenancy Act, 2006 (“RTA”), wherein Landlords are not able to prohibit the installation of air conditioning units in rental apartments, provided the following conditions are met:

- Renters must notify their landlord, in writing, that they intend to install an air conditioner;
- The air conditioner must be installed safely and securely without causing damage;
- Renters must pay for the air conditioner, installation and maintenance;
- Installation and maintenance would have to comply with any applicable laws, including municipal by-laws;
- Where the landlord supplies the electricity:
 - Renters would be required to inform their landlord about the air conditioner’s energy efficiency and how much they anticipate using it;
 - Landlords would be allowed to charge a seasonal fee based on the actual electricity cost or an estimate based on the information provided by the tenant; and,
- The landlord is entitled to enter the unit for the purposes of inspecting the air conditioning unit and that it has been installed safely and securely.

“Heat” is deemed a vital service under the RTA from September 1st to June 15th, but the RTA does not deem air-conditioning or cooling a vital service. However, the Municipal Act, 2001 gives cities the authority to enact by-laws for “health, safety, and well-being of persons”. Nonetheless, the above-mentioned changes to the RTA will ensure Tenants have the right to install air conditioning in their units. With respect to Provincial Legislation, it was noted by Councillor Brad Clark, in one of the past Public Health

Committee Meetings that “In the past, city staff have contended the heat issue is “more of a provincial matter, that we don’t have the ways and means” to pass such a bylaw”¹

More costs to Rental Housing Providers can cause rents to become more unaffordable, and more By-law requirements can negatively impact housing supply further.

In the National Post, published on May 17th, 2023, headlined: “Jamie Sarkonak: Forcing landlords to pay for air conditioning will only drive up rents”², stated that “Every time a city council adds a new rule to improve the quality of life of renters, it needs to be considered what those rules will do to the overall housing supply. Be careful of short term gains that can cause long term pain.”

If the Adequate Temperature By-law require Rental Housing Providers to provide Tenants with air conditioning, regardless of their need or ability to provide their own, then Property Owners or Rental Housing Providers are likely to increase rents for providing more services (which Rental Housing Providers are allowed to do as stated in the RTA), and furthermore and with respect to the rental housing supply, the more the rental market is regulated in a negative way, consequently, more Rental Housing Providers will likely exit the rental market, hence diminishing the rental housing supply, and furthermore, diminishing interest to invest in Hamilton due to over-regulation which will bring less new supply to the City.

Also, to strongly reiterate or emphasize on the loss of rental units, over the last few years, we have had rent increase guidelines (including the 2021 rent increase guideline which was zero percent) well below inflation in general, and also much lower than the increase in costs of running rental properties (i.e property taxes, insurance, repairs and maintenance, utilities and etc). Thus, many property owners with long term Tenants are currently operating at a negative cash flow, and hence we see many of them exiting or planning on exiting the rental housing industry. Furthermore, the house prices today indicate that these properties when sold, will turn into owner occupied houses (i.e by homebuyers from the GTA moving into Hamilton). Suffice to say, we are expecting a significant loss of rental units, and any additional costs or additional workload will increase the loss of rental units.

Furthermore, the above-mentioned National Post article stated “the status quo on heat certainly isn’t fun, but neither is the housing shortage.”

¹ [Hamilton tenants demand heat-protection bylaw \(thespec.com\)](https://thespec.com)

² <https://nationalpost.com/opinion/forcing-landlords-to-pay-for-air-conditioning-will-only-drive-up-rents>

More funding from all levels of Governments (i.e subsidies, rebates, grants, loans..etc) can help provide affordable air conditioners to those at risk.

- Advocate for more provincial funding which is currently capped for the Ontario Works (OW) and Ontario Disability Support Program (ODSP) eligible-participants. The applicants can receive only \$350 to purchase an air conditioning unit but it is not a sufficient amount to include any costs for installation and/or utilities. Furthermore, the proposed amendment to use some Municipal funding of \$52,500 from the Climate Change Reserves, for providing air conditioning units (approximately 100 to 150 air conditioning units equivalence) to eligible individuals in need, may be a starting point but will still be insufficient funding, as there are some areas or neighbourhood with a higher proportion of Seniors and those with Disabilities or vulnerability.
- More support for Rental Housing Providers (i.e subsidized costs) that plan on retrofitting a building with heat pumps which requires more time for compliance (planning and construction) than simply putting a window or portable air conditioner in each suite. City of Toronto has an Energy Retrofit Loan Program³ that offers fixed, long term, low-interest financing to enable building owners to invest in low-carbon, energy efficient capital improvements. City of Hamilton currently has the Better Homes Hamilton Pilot Program⁴ (which has still not come into effect yet), but should expand the program, similarly to Toronto, to more Eligible Buildings such as:
 - Commercial, Retail and Industrial
 - Multi-family Residential
 - Condominium buildings (common areas only, not individual units)
 - Social Housing
 - Hospitals and Long-term Care
 - Schools, Colleges and Universities
 - Not-for-profit
 - Hospitality

³ <https://www.toronto.ca/services-payments/water-environment/environmental-grants-incentives/energy-retrofit-loans/>

⁴ <https://www.hamilton.ca/home-neighbourhood/environmental-stewardship/environmental-plans-strategies/hamiltons-climate-2>

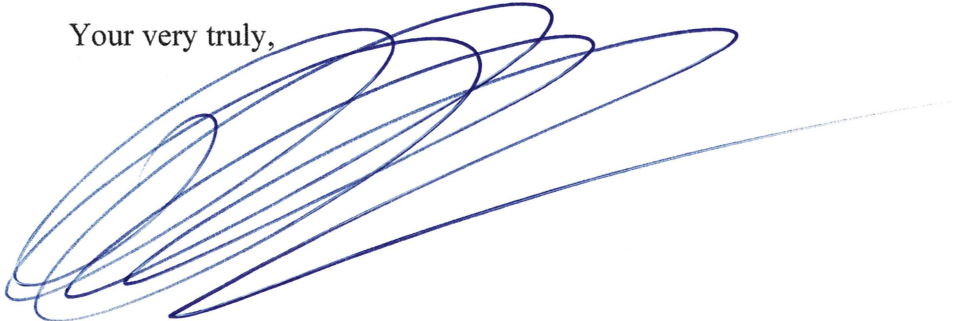
In summation to the above-captioned matter, I would like to simply reiterate what Jaime Sarkonak stated in the National Post article:

“Every time a city council adds a new rule to improve the quality of life of renters, it needs to be considered what those rules will do to the overall housing supply. Be careful of short term gains that can cause long term pain.”

Thus, on behalf of Hamilton and District Apartment Association, I sincerely advise for our Madam Mayor and Members of City Council to integrate all of the above-mentioned considerations and/or unintended consequences, when further discussing, or deciding on funding and/or implementing such Adequate Temperature By-law at a future date or prior to voting at the next Public Health Committee Meeting on June 3rd, 2024.

Please call or write if you have any questions or concerns with the above-mentioned, or if you would like to further discuss the above-captioned matter.

Your very truly,



Daniel P. Chin

President - Hamilton and District Apartment Association