




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

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	January 17, 2024
<b>SUBJECT/REPORT NO:</b>	Addressing Renovictions, Tenant Displacement and Property Standards in Apartment Buildings in the City of Hamilton (PED23072(a)) (City Wide) <b>(Outstanding Business List Item)</b>
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Gillian Barkovich (905) 546-2424 Ext. 2348
<b>SUBMITTED BY:</b>	Monica Ciriello Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That staff be directed to present for Council’s approval, the Renovation Licence and Relocation By-law to regulate repairs and renovations to rental units, in a form satisfactory to the City Solicitor, attached as Appendix “A” to Report PED23072(a), following the 2024 budget process and 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 Renovation Licence and Relocation By-law Fee Schedule developed at 10% cost recovery attached as Appendix "B" to Report PED23072(a);
- (c) That, subject to the adoption of the Renovation Licence and Relocation By-law by Council, the Transition Plan as detailed in Appendix “C” to Report PED23072(a) to develop, implement and administer the By-law be approved;

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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.

**SUBJECT: Addressing Renovictions, Tenant Displacement and Property Standards in Apartment Buildings in the City of Hamilton (PED23072(a)) (City Wide) - Page 2 of 11**

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- (d) That the General Manager of Planning and Economic Development be directed to refer the following to the 2024 Budget for the implementation of the Renovation Licence and Relocation 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 Officers 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 for the the transition period for the implementation of the By-law be funded by the Tax Stabilization Reserve 110046.
- (e) 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;
- (f) That subject to and following the approval of set fines by the Ministry of the Attorney General, staff be directed to work with Legal Services to amend the Administrative Penalties By-law No. 17-225 to incorporate charges under the Renovation Licence and Relocation By-law.

## **EXECUTIVE SUMMARY**

At the October 25, 2023, City Council meeting sub-sections (e), (f), (g), and (h) of Report PED23072 Addressing Renovictions, Tenant Displacement and Property Standards in Apartment Buildings in the City of Hamilton, was deferred to a committee meeting date no later than January 18, 2024, to allow staff to review the October 19, 2023, written correspondence received at the Emergency and Community Services Committee from ACORN and Advocacy Centre for Tenants Ontario, regarding possible By-law amendments.

Staff have reviewed the correspondence from ACORN and Advocacy Centre for Tenants Ontario, and as a result this report recommends amendments to the Renovation Licence and Relocation By-law to regulate repairs and renovations to rental units. The proposed By-law takes a reasonable and complementary approach to the *Residential Tenancies Act, 2006*, while simultaneously ensuring that the regulations are within the scope of municipal authority under the *Municipal Act, 2001*.

### **Alternatives for Consideration – See Page 11**

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: Financial impacts remain unchanged from Report PED23072.

Based on the recommended Fee Structure attached as Appendix “B” to Report PED23072(a), it is estimated that annual revenues for the program will be approximately \$94,285, or approximately 10% of program costs.

The total estimated annual cost of administering the Renovation Licence and Relocation 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); and,
- \$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 included in the 2024 Preliminary Budget.

**SUBJECT: Addressing Renovictions, Tenant Displacement and Property Standards in Apartment Buildings in the City of Hamilton (PED23072(a)) (City Wide) - Page 4 of 11**

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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 result in approximately \$530,000 in 2024 and the remainder of \$412,850 in 2025. cost savings. Therefore, staff are recommending, based on the proposed Transition Plan, that up to \$150,000 in one-time costs be funded from the Tax Stabilization Reserve 110046.

Staffing: Staffing impacts remain unchanged from Report PED23072.

Implementation of the Renovation Licence and Relocation 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; and,
- One full-time (1.0 FTE) Housing Clerk in Housing Services to facilitate tenant support/education.

Legal: Legal Services assisted with the preparation of the appended Draft Renovation Licence and Relocation By-law, attached as Appendix "A" to Report PED23072(a).

## **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 since repealed in the City of New Westminster, British Columbia.

**SUBJECT: Addressing Renovictions, Tenant Displacement and Property Standards in Apartment Buildings in the City of Hamilton (PED23072(a)) (City Wide) - Page 5 of 11**

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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 and Community Services Committee passed a motion (i) 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 stand-alone Renovictions By-law, in addition to any potential By-law associated with the review of a Tenant Support Program; and (ii) that staff report back on the ability of 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.

On August 17, 2023, through Report PED23072 - Addressing Renovictions, Tenant Displacement and Property Standards in Apartment Buildings in the City of Hamilton, Licensing and By-law Services staff presented recommendations on a full set of options to prevent renovictions in the City of Hamilton. The Emergency & Community Services Committee passed a motion deferring sub-sections (e), (f), (g) and (h) of Report PED23072 to the October 19, 2023, Committee meeting.

On October 19, 2023, the Emergency and Community Services Committee again deferred sections (e), (f), (g) and (h) of Report PED23072 to a meeting of the Emergency and Community Services Committee no later than January 18, 2024, and directed staff to:

- (i) Review the correspondence received from ACORN and Advocacy Centre for Tenants Ontario on October 19, 2023, regarding possible amendments and revisions to the proposed Renovation Licence and Relocation By-law as well as the proposed revisions made by ACORN to the by-law, and report back to Emergency and Community Services Committee no later than January 18, 2024, on any staff recommended revisions to the proposed Renovation Licence and Relocation By-law; and,
- (ii) Include the employee and other costs outlined in sub-section (h) of Report PED23072 as a Council Referred Item in the 2024 budget, such that the additional investments can still be approved as part of the 2024 Operating Budget should Council approve the Renovation Licence and Relocation By-law.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

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

- *Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023*
- *Municipal Act, 2001, S.O. 2001, c.25*
- *Ontario Building Code Act, 1992, S.O. 1992, c.23*
- *Residential Tenancies Act, 2006, S.O. 2006, c. 17*

## **RELEVANT CONSULTATION**

In preparing the draft By-law appended to this report and crafting the recommendations and alternatives highlighted herein, the following internal divisions were consulted:

- Corporate Services Department, Financial Planning Administration and Policy Division, Finance & Administration Section;
- Corporate Services Department, Legal and Risk Management Services Division, Legal Services Section;
- Healthy and Safe Communities Department, Housing Services Division; and,
- Planning and Economic Development Department, Licensing & By-law Services Division.

Thorough review of the written correspondence submitted by ACORN and the Advocacy Centre for Tenants Ontario to the Emergency and Community Services Committee meeting on October 17, 2023 was also undertaken.

Due to time constraints, no consultation with the community has taken place since October 17, 2023.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Staff have proposed a new and updated Renovation Licence and Relocation By-law attached as Appendix "A" to Report PED23072(a) which builds upon the initial By-law in Report PED23072 that came before Emergency and Community Services Committee on August 17, 2023, and October 19, 2023. The proposed Renovation Licence and Relocation By-law adopts a number of the aspects of ACORN's submissions in ways that are reasonably enforceable under Ontario law.

Overall, the proposed approach is one that requires landlords to obtain a licence from the City prior to commencing any renovation work that requires that an N-13 notice be issued to a tenant. The proposed By-law does not prohibit the issuance of the N-13

**SUBJECT: Addressing Renovictions, Tenant Displacement and Property Standards in Apartment Buildings in the City of Hamilton (PED23072(a)) (City Wide) - Page 7 of 11**

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notice, but instead creates a mechanism whereby the City would be informed upon the issuance of an N-13 notice, thus triggering the provision of information to tenants regarding their rights and access to the Tenant Support Program as outlined in Report HSC23023(b).

Various features of the Renovation Licence and Relocation By-law are summarized below:

- The By-law applies citywide to all rental units in the City of Hamilton.
- The landlord/operator is required to file an application with the City for a renovation licence within seven days of issuing an N-13 notice to a tenant.
- The application for a renovation licence must include supporting documentation including a building permit, a report from a qualified person (engineer) that states that vacant possession is required and a copy of the N13 notice.
- If an N13 notice is issued and a tenant has exercised their legal right of first refusal under S. 53 of the *Residential Tenancies Act, 2006*, the landlord must provide either a temporary alternative accommodation or compensation to the tenant for the duration of the renovation.
- Any temporary alternative accommodation offered to the tenant must be comparable to the tenant's current unit during the period of repair.
- Compensation is determined to be in an amount equal to the difference between the rent rate currently paid by the tenant for the unit being repaired and the Average Market Rent of a Rental Housing Unit with the same number of bedrooms as the tenant's current unit.
- The landlord/operator shall provide particulars to the City of the arrangement that has been made, prior to receiving a renovation licence.
- If the landlord/operator and tenant cannot make an arrangement, then the Director may make an exemption to this provision and may impose conditions on such exemption.
- A landlord/operator may be subject to enforcement for failing to comply with the provisions of the by-law.

The Renovation Licence and Relocation By-law does not:

- (a) Prevent a landlord from issuing an N-13 notice; or,
- (b) Permit City staff intervention in areas which fall under the scope of the *Residential Tenancies Act, 2006* or the Landlord and Tenant Board.

The Renovation Licence and Relocation By-law would create a mechanism whereby:

- (a) The City would become informed of an N-13 notice; and,

**SUBJECT: Addressing Renovictions, Tenant Displacement and Property Standards in Apartment Buildings in the City of Hamilton (PED23072(a)) (City Wide) - Page 8 of 11**

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- (b) A tenant upon receiving an N-13 notice would become aware of their rights from delivery to them of the Tenant Rights and Entitlement Package.

By requiring that this information be shared with the tenant under the By-law, it will assist the City with connecting tenants with support initiatives as outlined in Housing Services Report HSC23023(b).

Those support initiatives include:

- (a) The tenant defence program to provide legal assistance to tenants who receive an N-13 notice including the filing a right of first refusal under the *Residential Tenancies Act, 2006* to return to their unit;
- (b) Education campaigns on rights and responsibilities of the landlord and tenants; and,
- (c) The creation of a community research table that will include tenant's voices in identifying gaps in the system for tenant supports.

### **Fines**

Section 434.1 of the *Municipal Act, 2001*, provides the authority for municipalities to require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law. The purpose of the Administrative Penalties By-law No. 17-225 is to assist municipalities in promoting compliance with its by-laws. Subsection 434.1 (3) states that the amount of an administrative penalty shall (a) not be punitive in nature and (b) shall not exceed the amount reasonably required to promote compliance with a by-law of the municipality. This may include issuing charges for each day that an offense occurs.

As reflected in Recommendation (e) and (f), Licensing and By-law Services will first make an application for set fines to the Ministry of the Attorney General. Once set fines are approved by the Ministry of the Attorney General, staff will work with Legal Services to amend the Administrative Penalties By-law No.17-225 for Council Approval.

### **Transition**

The transition plan for implementation of the Renovation Licence and Relocation By-law detailed in Report PED23072, attached as Appendix "C" to Report PED23072(a), remains unchanged.



## **Enforcement**

Enforcement of the Renovation Licence and Relocation By-law detailed in Report PED23072 attached as Appendix “C” to Report PED23072(a), remains unchanged.

Generally speaking, enforcement of the By-law will be based on a 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 and/or fee’s may follow for non-compliance. Officers will continue to rely on other City By-laws, including Noise, Property Standards, Yard Maintenance and Vital Services to ensure that landlords/operators are mitigating disruption at the Residential Complex during renovations.

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.

## **Costs to Landlords**

The recommended cost to landlords for an application for a Renovation Licence is \$715. The cost of the licence application was developed on a 10% cost recovery model and is based on the assumption that at least 132 N-13 Notices will be issued yearly.

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 N-13 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 the above guideline increases; and,
- Discouraging investment in new rental properties.

## **Risks/Challenges**

It is important to note that there are potential risks and challenges associated with approving the Renovation Licence and Relocation By-law that were highlighted in Report PED23072 and remain unchanged. They are summarized below.

**SUBJECT: Addressing Renovictions, Tenant Displacement and Property Standards in Apartment Buildings in the City of Hamilton (PED23072(a)) (City Wide) - Page 10 of 11**

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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 and may be subject to legal challenge. It is also possible that City staff could be summonsed to testify at the Landlord and Tenant Board about the requirements of the By-law and the information that led to the issuance or denial of a renovation licence. At the Landlord and Tenant Board, both the landlord and the tenant will likely rely on the prescribed qualifications report, that requires vacant possession.

The Provincial *Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023*, has received Royal Assent but has not yet been proclaimed at the Provincial legislature. It is possible, upon proclamation, that the City may be required to amend the By-law to conform with the provisions of the legislation. *Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023*, proposes a number of amendments to the *Residential Tenancies Act, 2006*, relating to notice of termination where renovations or repairs to a rental unit are required.

It is also important to note that if repairs are being completed in response to a City issued Order such as under the Property Standards By-law or under the Safe Apartment By-law, if approved by Council, tenant protection offered under Section 54 of the *Residential Tenancies Act, 2006* with respect to compensation or another accommodation would not be triggered. Section 54 of the *Residential Tenancies Act, 2006* only provides compensation or the possibility of alternate accommodation when the repairs or renovations are voluntary, as would the Renovation and Relocation By-law. With the approval of the Safe Apartment Buildings By-law, staff will be conducting regular inspections of rental buildings across the City, and there is the possibility that an increase in Orders will occur. 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, 2006*, nor would the Renovation and Relocation By-law would not apply.

Lastly, there is a risk of community expectations around the involvement of City staff in bringing resolution of landlord/tenant disputes. City staff cannot arrange housing solutions or cannot evict tenants. The Licensing and By-law Services role is limited to ensuring that the conditions of the By-law have been fulfilled to issue a Renovation Licence and issuing orders/charges for non-compliance.

## **ALTERNATIVES FOR CONSIDERATION**

### **Alternative One: Adoption of the “Renovation Licence and Relocation By-law” proposed in Report PED23072.**

Council may give consideration to adopting the version of the Renovation Licence and Relocation By-law that was detailed in Report PED23072.

### **Alternative Two: Await Proclamation of Bill 97, *Helping Homebuyers, Protecting Tenants Act, 2023***

As detailed in this report, *Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023* will likely have a direct impact on the Renovation Licence and Relocation By-law. The bill has received Royal Assent but has not yet been proclaimed. Council may consider directing staff to pause work on the Renovation Licence and Relocation By-law and report back to the General Issues Committee with recommendations once proclamation has occurred. In the interim, Council may consider directing staff to monitor Landlord and Tenant Board data on issuance of N-13 notices and direct tenants to engage with the tenant supports offered through the Tenant Defence Fund/Housing Services.

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to PED23072(a) – Draft Renovation Licence and Relocation By-law

Appendix “B” to PED23072(a) – Draft Renovation Licence Fee Schedule

Appendix “C” to PED23072(a) – Draft Renovation Licence and Relocation By-law – Transition Plan

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