

Recommended Regulatory Regime for Rental Housing

Introduction

The recommended regulatory framework for rental housing has been designed to enhance regulatory compliance with property standards and maintenance while minimizing the impact of enhanced regulation and enforcement on the availability and affordability of private market rental accommodations.

Staff recommend that this is best achieved through enhanced case management, focused enforcement against problem addresses/operators with increased resources, and the provision of additional consumer education for residents. Through the provision of consumer protection information, it also equips tenants with the tools needed to address more housing quality issues without the intervention of the City.

Specific measures recommended by staff include:

1. Developing and enacting a Rental Property Management By-law, as described below and in the report,
2. Creating and enacting additional pest and vermin control regulations with standards and obligations for both landlords and tenants,
3. Increase re-inspection user fees in the Property Standards By-law (2013-416, as amended) for violators,
4. Create 2 additional by-law enforcement officer positions (2 FTEs) to undertake focused enforcement of property standards and property maintenance matters for problem addresses, on a cost recovery basis,
5. Establish tracking mechanisms to better monitor rental housing quality,
6. Explore the feasibility of establishing a consumer protection and education website with:
 - a. Educational content on tenant rights and related issues, including social media videos in multiple languages, subject to a funding source being identified for these initiatives,
 - b. An online searchable database to display the history of property standards and maintenance violations,
7. Explore the feasibility of providing greater transparency through Property Standards Compliance Reports or other documentation to both tenants and landlords following investigations.

Each of these measures are described in detail in the following sections.

Recommended Timing for Implementation:

- It is recommended that the proposed re-inspection fee of \$500 to be levied against violators in property standards matters be implemented immediately and that 2 additional property standards officers (2 FTEs) within the By-law and Regulatory Services be created immediately based on funding from these user fees, in order to

provide focused response and inspection of property standards, property maintenance and other issues at properties for which there are known problems.

- The proposed new Rental Property Management By-law together with the by-law amendments related to pest and vermin control, as described in the report and below, will be developed and reported to Community and Protective Services Committee in early 2020.
- The proposed non-by-law measures including enhanced tracking mechanisms, a consumer protection and education website and related matters will also be reviewed and form part of the staff report in early 2020.

1. New Rental Property Management By-law

This new by-law is recommended for the purpose of prescribing communications between landlords and tenants in private market rental housing that will assist in decreasing property standards and maintenance issues thereby increasing overall quality of housing and assisting in enforcement of violations when they occur. This proposed by-law would introduce the following requirements:

Communications with Tenants

- Upon signing a lease agreement, the landlord (or their agent) would need to provide the tenant with the following information in writing:
 - Name, Address, Phone Number and Email Address for the landlord and their designated property manager (if applicable)
 - Instructions for waste management
 - Instructions for lawful parking (on-site and/or on-street, as applicable)
 - Instructions for maintenance/cleanliness of common areas and exteriors
 - Instructions on how to report problems:
 - first to the landlord/property manager; and
 - to the City
- A copy of this document would be signed by the tenant, retained with the landlord's copy of the lease, and provided upon request to investigating officers from By-law and Regulatory Services. The provision of this required information is expected to provide a record of responsibilities and allow the parties on site to address issues. This is deemed to be more effective than the various landlord licensing/registration options considered during the course of the Study.
- This information may also be used to determine, when violations occur, if these should be charged to the tenant or landlord. It will also assist in clarifying expectations and defining tenant and landlord obligations for the upkeep of the premises.

- Landlords will be required to provide an updated document to tenants should any of the information change

In addition to the above, staff are currently exploring methods to facilitate and manage lawful right of entry (access) by By-law and Regulatory Services for purposes of responding to complaints and investigating compliance with by-law requirements. Challenges currently exist in obtaining right of entry to rental units in a timely manner in circumstances where more than one unit may be involved in a complaint (e.g. pest and vermin control, floods) and where entry must be coordinated to several units concurrently to address the problem efficiently. Right of entry to any dwelling by by-law officers and property standards officers is regulated by the *Municipal Act, 2001*, and the *Building Code Act*, respectively, and requires either consent of the occupant or a court warrant. In addition, gaining right of entry through the landlord/owner requires that the landlord issue a 24-hour notice to gain right of entry to a rental housing unit as permitted under the *Residential Tenancies Act, 2006* (RTA), Section 27(1). As a result, there is a desire to find mechanisms to mitigate right of entry challenges experienced by BLRS in the above-noted circumstances, in order to address complaints quickly and efficiently while also respecting the rights of the tenants.

Staff recommendations for solutions within the context of proposed by-law or through amendments to other by-laws will be provided when staff report back in 2020 on the rental housing regulatory regime.

2. Pest and Vermin Control

While the Property Standards By-law establishes the standard that “a dwelling shall be kept free of vermin at all times”, the regulations do not address the unique and shared responsibilities of tenants and landlords to resolve and prevent future infestations.

Staff recommend that the Property Standards By-law be amended to provide specific requirements to both tenants and landlords concerning pest management in order to reflect the shared responsibilities of both landlords and tenants in this area. Staff have reviewed multiple municipal frameworks, as well as the Integrated Pest Management Program implemented by Ottawa Community Housing (OCH), as examples of effective solutions. Staff recommend that OCH, ACORN Ottawa, the Eastern Ontario Landlords' Organization and Ottawa Public Health be invited to participate in the development of these standards. The goal of this work will be to create clear and robust pest and vermin control standards and requirements for both landlords and tenants. These will be presented for approval when staff report back on the overall rental housing regulatory regime in 2020. At that time, staff will provide recommendations as to whether these new pest and vermin control standards and requirements are best located within the existing Property Standards By-law or in the proposed new Rental Property Management By-law.

3. Implement cost recovery for re-inspection of property standards violations and increase enforcement capacity

The recommended regulatory regime for rental housing aims to achieve financial sustainability by recovering the costs of additional enforcement through service fees associated with the enforcement of property standards violations, as required under the City's User Fees and Charges Policy and as authorized under s. 391 of the *Municipal Act, 2001*. To this end, staff recommend that the *Property Standards By-law* be amended to modify and harmonize existing re-inspection fees to a new amount of \$500 per occurrence. This proposed fee would be levied when officers must re-inspect a property as follows:

- In circumstances where the timeframe provided in a Notice of Violation or an order has elapsed; and
- A deficiency or violation remains.

It is recommended that the flat fee approach suggested above replace the current re-inspection fee of the *Property Standards Bylaw (No. 2013-416)* of \$102 for the first hour of inspection time (or part thereof) and \$50 for each subsequent for each property, which has proven to be difficult to administer.

Under this proposal, By-law and Regulatory Services property standards officers would continue to respond to service requests and conduct initial investigations as a service offered by the City and funded through the tax roll. The new \$500 re-inspection fee would be levied when violations persist after a notice of violation or order has already been issued and require staff time to resolve. The violator will be responsible for paying the fee. The proposed amount for re-inspection is based on average enforcement costs as opposed to an hourly rate, including the average hourly cost of a Property Standards Officer, including equipment as well as staff time and costs for administration of the file, preparation of required documentation, attendance on site, internal consultations with the Director or others as required, and related processes.

It is noted that as compliance improves, fewer fees will likely be collected but fewer inspections will also likely be required.

Based on research of applicable instances in the past years, it is anticipated that that approximately 450 cases will occur where re-inspection is required past the prescribed time for compliance and where violations persist. The revenue provided by the application of this new fee is therefore estimated to be approximately \$225,000. The revenue from this user fee is recommended to be used to provide By-law and Regulatory Services with additional capacity of 2 officers on a temporary basis in order to provide focused property standards enforcement for properties where there is the greatest amount of complaints, where the greatest amount of violations is detected, or where the greatest amount of problems is expected to occur based on past history.

It is recommended that this new fee be implemented immediately by placing the required amending by-law on Council's agenda for enactment as soon as possible, as set out in the report. Staff will report back with an evaluation of the efficacy of this approach at the same time as the report back with the evaluation of the short-term rental regulations, following the 3 year period, as described in the Next Steps portion of the report.

4. Establish tracking mechanisms to monitor rental housing quality

The City is currently implementing a replacement of the MAP database system. Among its many applications, this database is used for By-law and Regulatory Services service request case files. As the replacement technology is being configured for deployment, the City has a unique opportunity to implement new data fields and processes to identify and track rental addresses and improve services for tenants and landlords alike. At this stage of development, staff anticipate that these features can be implemented with no additional cost to the City. These include:

- Identifying rental addresses at call intake
- Identifying if the caller is a landlord, tenant, neighbour or other person
- Providing an additional contact field for persons who serve as advocates on behalf of vulnerable tenants
- Provide bilingual descriptions of service categories and violations
- Automated billing for prescribed fees
- Automated generation of Notices of Violation (NOV's), Orders and Compliance Reports
- Automated reporting of NOV's and Orders on ottawa.ca (as proposed in Item 5 (b)) through an Application Programming Interface (API)

These features will improve By-law and Regulatory Services' ability to identify and track problem addresses and issues in real time, aiding the design of deployment models and information campaigns. It will further enable analysis of other service issues (such as noise, waste disposal and parking) associated with rental properties.

While there are no material costs to the implementation of this proposal, increased administration requirements will add an estimated 200 hours to Service Ottawa intake demand and an additional 400 hours to By-law and Regulatory Services case management.

5. Establish a consumer protection and education website for tenants

In order to assist tenants with awareness of their rights and responsibilities, staff proposes the creation of a new Rental Housing page under the Residents section of

ottawa.ca. This page will provide the information residents with basic information including how to secure assistance from the City and other external agencies when required. Proposed improvements would include:

a) Educational content, including social media videos in multiple languages (subject to funding source being identified)

The City currently provides tenant information on ottawa.ca in English and French as well as downloadable PDF documents in Arabic, Hindi, Indonesian, Mandarin, Spanish, and Urdu. Subject to funding being available through user fees (re-inspection fees) noted above, staff recommends updating this content, providing new video formats to serve residents with lower literacy proficiency and expanding the number of languages to include Algonquin, Inuktitut, Somali, American Sign Language, and Quebec Sign Language. Where possible, this content should be developed in partnership with members of these communities.

While 98.5% of residents have some proficiency in English or French, 22% speak a non-official language as their mother tongue. The languages proposed were selected based on demographic analysis of renters, both city-wide and in buildings with the most frequent rates of service requests. These will provide first-language service to an additional 65,000 residents, with particular benefit for new Canadians, our Innu population and persons with hearing impairment.

Staff estimate that \$100,000 would be required for this initiative, which would require an external vendor. There is currently no funding source available for this initiative. Staff will report back on further research for funding sources as part of the staff report back on the proposed Property Management By-law in 2020.

b) Create an online searchable database

Staff is recommending that the feasibility of an online searchable record of property standards violations and orders similar to the model used by City of Vancouver be further explored. Providing this information to the public will enable tenants to make informed choices about where they are renting and further encourage landlords to maintain required standards.

Further research is required for this proposal. Disclosure of information that potentially identifies landlords or tenants and provides details of violations is subject to the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). Staff would review how to provide the maximum amount of information possible within these regulations.

Development of this tool could potentially occur with existing City resources, but the timing of its release will be dependent on the operational deployment of the new enforcement database. Depending on the content of this proposed website tool, staff will consult with the Eastern Ontario Landlord's organization to identify

appropriate triggers for the delisting of violations, such as complete building renovation or demolitions. Staff may also consider the notation of additional events, such as change of property ownership, that will further support consumer awareness and protection. Any additional administrative costs to implement these measures would need to be paid through fees on a cost recovery basis.

c) Provide contact information for tenant advocacy and legal services agencies

Staff recommend utilizing the Stakeholder Register established for this Rental Accommodations Study to create a public listing of other government and community agencies with a mandate to support tenant rights, including a description of the services offered, accessibility and language supports available and contact details.

This proposal can be implemented with existing City resources and would provide key contacts and information to enable tenants to become informed about their rights and responsibilities under applicable legislation. By-law and Regulatory Services will be responsible for maintaining this information on an ongoing basis.

6. Review options to provide transparency through Property Standards compliance reporting following investigations

Staff have heard through stakeholder consultations that tenants would like easier access to documents, in the nature of compliance reports, to use before the Ontario Landlord Tenant Board (LTB). Currently, some documentation from a property standards perspective is available to both the landlord and the tenant, such as a copy of a notice of violation or an order.

However, staff recommend that, as part of further work on the regulatory regime for rental housing, further research occur as to the feasibility of improving the existing reporting and documentation processes so that existing available documents are better suited for use by either the tenant or the landlord before the LTB, or the creation of a new type of compliance report, if feasible. Alternatively, staff will explore the feasibility of creating a Compliance Report that can be provided automatically to both tenants and landlords following an investigation. Community and Legal Services has offered to consult with the City on the creation of a report that will be suitable for use as evidence at the Ontario Landlord Tenant Board (LTB).

This work would include determining the type of information that can be provided under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), and potentially automating the process for delivering this information.

Based on 2018 service levels, the cost of this initiative is estimated to be \$30,000 annually. This costing is based on the provision of printed documents.

7. Protecting Tenants from Unlawful Eviction – Future Considerations

Staff recommends that further consideration of whether it is feasible to create municipal protections through regulations against unlawful eviction be postponed pending the announcement by the Province of Ontario of further legislative changes to the *Residential Tenancies Act, 2006*.

Research conducted during this study has revealed a concern among tenants and advocacy groups about evictions occurring contrary to provincial rent controls and taking advantage of rapidly inflating market prices. The two most common methods reported in these cases and used to evict tenants in this fashion are:

- “Renovictions” – Displacing a current tenant for repairs deemed necessary by the landlord, without providing the opportunity for the resident to resume occupancy after the work is completed.
- N12 Evictions – Displacing a tenant so that an immediate family member can take occupancy, then flipping the unit in less than the 12 prescribed months.

While a small number of Canadian municipalities have enacted by-laws to make unlawful evictions more challenging and less financially lucrative for landlords, staff recommend that Council delay consideration of this issue until staff have had the opportunity to review and analyse any pending amendments by the Province to the Residential Tenancies Act. The Ministry of Municipal Affairs and Housing has indicated through public communications that these amendments are pending.

Areas of municipal concern that will eventually need to be considered include:

- Any changes to municipal authority respecting rental housing
- The likely impact of proposed changes on residents of Ottawa, such as:
 - Housing Security
 - Physical and Mental Health
 - Special consideration of protected classes and vulnerable persons as related to housing security

- The impact of proposed changes on Ottawa's rental market and municipal housing policies and programs
- Possible gaps in consumer protection caused by either by legislation or enforcement practices and resources

In order to address these considerations, staff will need to conduct additional research and consultation following the announcement of the proposed legislation by the Province. Should the provincial legislation be announced and approved prior to Council's consideration of the proposed Rental Property Management By-law, staff recommendations will be incorporated into that report.