



TORONTO STAFF REPORT

December 10, 2003

To: Planning and Transportation Committee

From: Paula M. Dill, Commissioner, Urban Development Services

Subject: A Framework Strategy to Ensure that Privately-owned, Multi-Unit Residential Buildings are maintained in accordance with the Provisions of the Toronto Municipal Code

Purpose:

To propose a framework strategy to ensure that privately-owned, multi-unit residential buildings are maintained in accordance with the provisions of the Toronto Municipal Code through the development of a licensing regime and enforcement protocol, and to ensure that there is a public disclosure system for information on violations of the Code.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendations:

It is recommended that:

- (1) Council adopt the framework strategy in principle;
- (2) Council request the provincial government to take the necessary action to remove Regulation 243/02 of the Municipal Act, 2001 in order to allow the licensing of apartment buildings;
- (3) Staff be requested to report back to Committee with a workplan which outlines the necessary timelines, resources, budget implications and consultations necessary to implement this strategy; and
- (4) The appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

Apartments account for about one-half of Toronto's dwelling units and 49% of the population are renters. There are 454,430 units in 3,590 rental apartment buildings in Toronto. Very few purpose-built rental units have been constructed in recent years and the number of rental units has dropped significantly between 1996 and 2001 (Profile Toronto: Renewed Housing Demand. No. 2. Sept. 2003. Toronto Urban Development Services Policy and Research). The reduction in the number of rental units is accompanied by concerns about the state of the ageing stock and the need to ensure that the health and safety of tenants is protected.

The current inspection system in Toronto for issues related to bylaw enforcement of property standards is complaints-based. This system depends on tenants to work with their landlord to address maintenance issues and to contact Municipal Licensing and Standards offices in the event that the problem persists. There are concerns that many tenants may not use the complaints system due to barriers related to language, culture or out of fear of retaliation from their landlord – leading to unsatisfactory living conditions and often, more expensive solutions, once a problem is revealed. Further, the penalties for non-compliance of violations are perceived as lenient and resources are limited in being able to respond to non-emergency complaints in a timely manner.

In 1999, City Council adopted a report recommending that multi-unit residential buildings be licensed using a class system and operate on a cost-recovery basis. In exchange there would be a pro-active inspection programme for all common areas in multi-residential buildings. The Province did not give the necessary permission to bring this into effect.

Comments:

In order to address the issues related to preservation of private rental housing stock and the development of a disclosure system for tenants, it is suggested that an overall strategy be adopted. This strategy would include a) a licensing system with a revenue stream to support pro-active inspections and building audits, b) the development of an enforcement protocol for property standards and other by-laws in private rental apartment buildings and the provision of a call centre to centralize complaints as well as information disclosure and c) a web disclosure project in which information on violations is available to the public on the City website and is also posted in the common areas of apartment buildings.

1. Licensing

In Ontario, municipalities may license activities in order to protect the health and safety, to provide consumer protection and protect against nuisance. The licensing of apartment buildings provides the means of protecting the rental housing stock through a pro-active inspection programme funded by licensing revenues. The City of Toronto currently licenses rooming

houses where zoning permits, in order to protect the health and safety of tenants and address the concerns of neighbouring residents. An argument can be made that there is a need to extend some form of pro-active licensing to similarly protect tenants in multi-unit residential buildings. While Council is on record as being supportive of this option, it is necessary to request the Province to remove a regulation under the Municipal Act in order to proceed.

Another suggestion is to proceed to license the 'business' of operating an apartment building. There are no legal impediments to this solution. However, the licensing of apartment operators is not likely to generate sufficient revenues to embrace a pro-active inspection system, and does not deal with constant changes in property management. Traditionally, licensing of apartment operators has been used in other jurisdictions as a registration tool to deal with absentee landlords.

The provision of a licensing system would place the onus on the apartment buildings or operators to show compliance, provide additional resources to investigate complaints and/or develop a pro-active system of inspections and also assist with the overall protection of multi-unit residential housing stock in the City of Toronto.

1.a) Licensing of Apartment Buildings

The advantages of a pro-active inspection system include: addressing the reluctance of tenants to complain for fear of reprisals from the landlord; thorough inspections whereby deficiencies are identified within a defined period of time rather than randomly over a period of months or even years; no reliance on complaints from tenants to initiate action in common areas and a decrease in the number of en-suite complaints as landlords come to believe that the City can, and does, act. Nevertheless, a pro-active inspection system will still need to accommodate tenant complaints.

Examples of jurisdictions which license apartment buildings include Vancouver, which charges \$45 per unit, per year for additional units in a single-family home through to multi-unit residential properties – but does not provide a pro-active inspection of the rental unit. In Los Angeles, all residential properties with over two dwelling units are registered with the Housing Department and a full inspection (common areas and dwelling units) is performed every three to five years for a fee of \$12 per unit, per year.

As a condition of licensing, it is suggested that information be posted for tenants in the event of a property-related emergency, as well as a copy of the business licence. Another suggestion is for a landlord-tenant complaint process to be submitted as part of the licence requirement.

Based on a review of the enforcement history, it is possible to also recommend a class system with different periods of renewal and different fees associated with each class. This system would allow for the upgrading, downgrading or revocation of a licence. This system could also be used to develop a schedule of pro-active inspections; i.e. fewer planned inspections in those buildings with the highest class of licence. This may also provide an incentive to landlords to maintain the highest class of licence. The 1999 report adopted by Council suggested a fee structure based on a class system, ranging from \$0.40 to \$0.70 per unit, per month based on the

provision of a management plan, the past enforcement history and level of competence and experience of the operator. The 1999 report projected revenues in the order of \$3.25 million. It will be necessary to review this amount as part of the overall workplan, to ensure that the fees are sufficient and able to address the funding of a pro-active inspection strategy.

Tenants, insurers and financing authorities would be able to access the database maintained by the City to determine if a building was in compliance with the provisions of the by-law, while transfers of licences would be treated similar to those of other business licences. A business licence for apartment buildings, which has no conditions and is of the highest class, would also serve to attract tenants in a high vacancy rental market and become a selling point in obtaining insurance or refinancing for a building. The further benefit of this option is that it would allow the City to pursue a remedy which attaches a licence to actual buildings, assess fees based on the number of units and ensure compliance among both large and small operators.

The City property registry would be used to ensure all properties are registered, to send out renewal notices and track late or missed registrations. Due to the nature of this type of business licence, the penalty for failing to hold a valid licence would be in the form of a financial penalty (tickets or court-imposed fine). Prosecutors could seek a contempt order for persistent defaulters. Information on defaulters or licensees with conditions could be made available to owners, insurers, mortgage-holders and tenants.

Issues that will need to be addressed in the development of a licensing system include the number of buildings to be licensed, whether a pro-active inspection programme would extend to dwelling units as well as common areas, the fee structure and critically, the necessary resources to meet the service objectives.

1. b) Licensing Apartment Operators

In lieu of licensing the buildings, Legal Services has advised that it is possible to license the apartment building operators/property managers of rental properties as a business under the Licensing By-law.

Precedent exists for this form of licensing in Calgary and Edmonton. The City of Edmonton charges \$3 per unit (\$100 minimum fee) for operator licences while Calgary charges \$100 to operators of buildings with three storeys or less and those operating buildings higher than three storeys pay \$200.

As a condition of licensing the operator, it is recommended that they provide a 'condition survey' – essentially an audit of the building's elements such as elevator, cladding, roof condition, water distribution, heating systems, etc. This ensures a basic level of compliance, with the onus on the operator, rather than the City. These surveys are fairly routine (although currently not standardized) and often done as part of a due diligence study associated with financial transactions related to the building.

The penalties for failing to hold a valid licence are similar to those identified for apartment building licences. Also, the issues related to cut-off points for licensing, fees and resources for implementation are similar to those identified in apartment building licensing.

This option has the benefit of being relatively easy to implement under the current legislation, but it may not address issues related to continual changes in property management. Traditionally, licensing of apartment operators has been used in other jurisdictions as a registration tool to deal with absentee landlords.

2. Development of Enforcement Protocols in Privately-Owned Residential Rental Apartment Buildings

Council has adopted a protocol for the enforcement of property standards and other by-laws in Toronto Community Housing Corporation-owned buildings. There is a need to work with the affected parties to bring forward a similar enforcement protocol for tenants in privately-owned buildings. This protocol would set out a procedure for dealing with the different types of complaints and set out a range of response times – dependent on the extent to which health and safety are in jeopardy. The current impediment to strict service guidelines is the number of complaints as well as lack of available resources to enforce complaints. Other impediments include rights of access to individual units and the procedures for enforcement of property standards by-laws, that are set out in the Building Code Act. The provincial government has suggested that it will bring forward changes to the Tenant Protection Act and one useful tool might be the reinstatement of Work Orders Prohibiting Rent Increases, which provided an effective tool towards compliance with work orders. The Budget Advisory Committee will also be reviewing a recommendation that owners who fail to comply with orders will be assessed an hourly fee for all further inspections, once the date for compliance has passed.

The development of a call centre to manage tenant inquiries and complaints is another suggested service improvement, which would allow tenants to call one phone number for complaints and further information about violations in their unit or the common areas of their building. There is also the potential to link this with the proposed ‘311’-service application currently before the CRTC. A web disclosure system could also allow for tenants to make on-line complaints.

3. Public Disclosure of Information on Violations in Multi-Unit Residential Buildings:

Tenants are entitled to receive information about violations in their own unit. Information on violations in the common areas of their apartment buildings is also available, upon request. They cannot access information about violations in other private units unless they proceed with a request through the Corporate Access and Privacy Office. Similarly, prospective tenants cannot currently access violations information about apartment buildings they may be interested in due to a shortage of resources which, of necessity, places the focus on making information available to existing tenants. A service enhancement would be to provide this information (without personal identifiers) to prospective tenants and allow them to become more informed consumers when looking for a home. Such information could be provided through a phoneline, on the city

website and through the use of placards in the common areas of apartment buildings. This may also provide an additional tool in obtaining compliance on violations from landlords. Preliminary discussions with the Corporate Access and Privacy office indicate their support for such an initiative.

Examples of web disclosure include systems in Chicago, LA and New York, which coordinate a number of municipal information sources including tax, water and code violations. Private Foundations fund the website in Chicago.

In Toronto, the Dinesafe project is an example of a multifaceted approach to inspections and enforcement, which uses an inspection system, based on risk assessment. It provides information to the public through a phone line, mandatory posted notices and a website. The website provides a two-year inspection history of a licensed premise as well as detailed information about the program. Members of the public can search for information by address, geographic area, category or even date of inspection. The Public Health project was an intense four-month project that had significant staffing and financial resources attached to it.

Based on the preliminary research, there are a number of issues that will need to be considered in determining the timelines for the project completion. These include an assessment of the existing data quality, a determination of the service scope based on numbers and types of complaints, the development of quality assurance programmes to ensure consistency, regular programme evaluation, security measures, privacy constraints, and the necessary financial and staffing resources.

Conclusions:

There are concerns that due to constrained resources, the current inspections system is only able to respond to tenant complaints. There is also the perception that many tenants do not complain about inadequate living conditions – due to language barriers or fear of retaliation. The introduction of an apartment licensing system would facilitate a means of providing scheduled pro-active building inspections in exchange for a yearly licence fee. This requires that the provincial government remove a regulation, which currently prohibits this form of a licence. Another option is to issue a licence to the apartment building operator with the onus on the operator to provide the City with a ‘condition’ audit on their building. This form of licensing does not require any further provincial action.

An additional service enhancement would be the provision of a call centre to accept tenant complaints and provide tenants with information about scheduled inspections, notices and orders, etc. A protocol on the enforcement of property standards and other by-laws in private multi-unit rental, residential buildings also needs to be developed.

With sufficient resources, it is possible to create a Web disclosure site on violations in private multi-unit rental residential buildings. There are a number of issues that need to be addressed in advance of implementation. A consultation process should also be implemented to ensure that all of the affected parties have an opportunity to participate in the development of all parts of the strategy to preserve rental housing.

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List of Attachments:

Appendix A--Map --Concentration of Rental Apartments with more than Six Units in
City of Toronto
Appendix B--Table- Rental Apartments with more than Six Units in City of Toronto

Rental Apartments – More Than Six Units

Summary

Total records = 3,590

- These records include both private and assisted rental (TCHC)
- These records include, as a primary structure category (from assessment)
 - Walkup apartments, > 6 units
 - Med/high rise apartments, > 6 units
- These records do not include row housing

Total Units = 305,639

Records with no height data (storeys) = 267

Some unit ranges and building counts:

Units	Building Count	(%)
< 10	55	2
10-19	860	24
20-29	411	11
30-39	377	11
40-49	242	7
50-59	186	5
60-69	184	5
70-79	123	3
80-89	104	3
90-99	87	2
100-149	323	9
150-199	209	6
200-249	150	4
250+	279	8

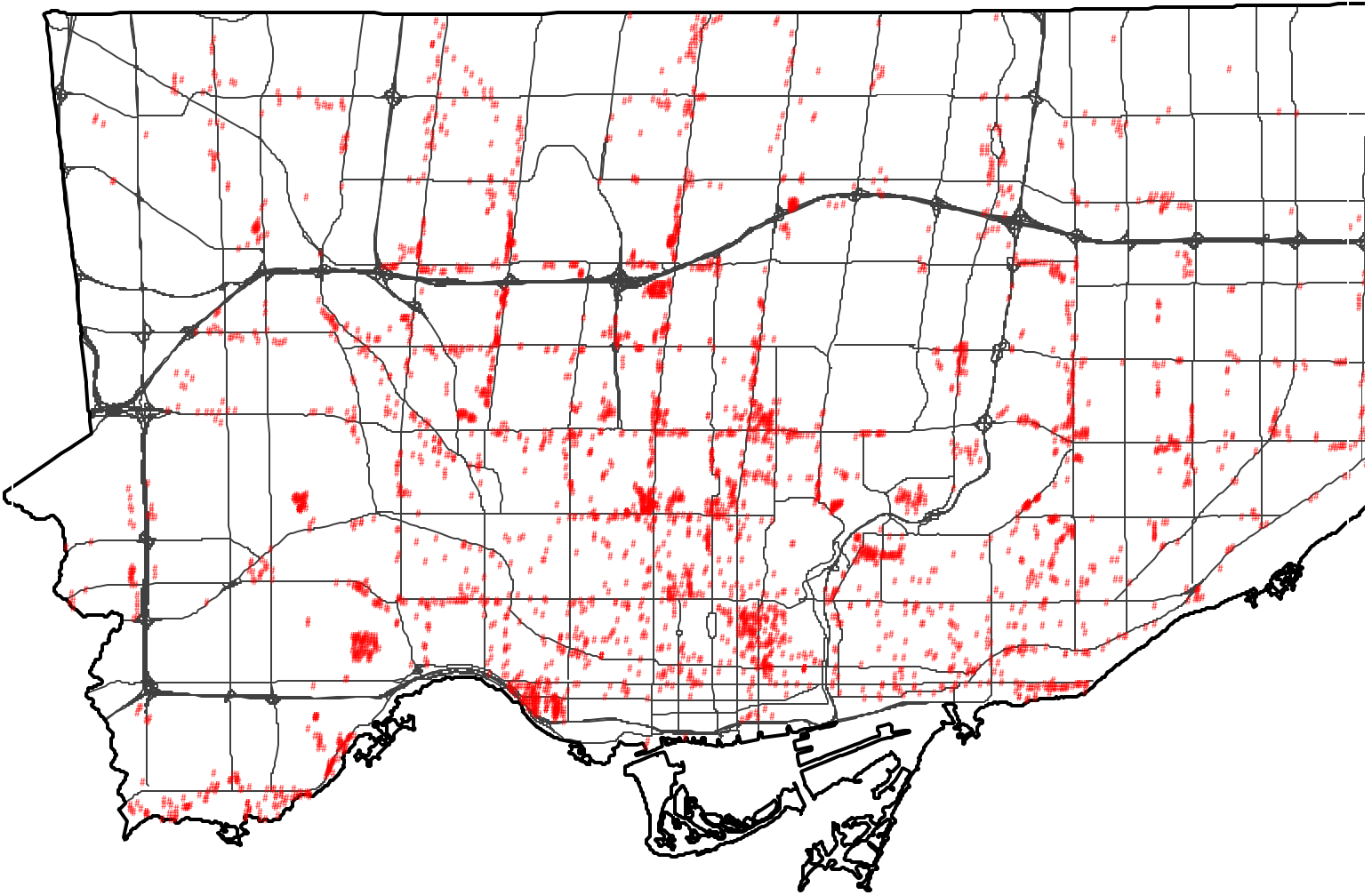
Some unit counts by number of storeys:

Storeys	Building Count	(%)	Units	(%)
0	267	7	40,061	13
1-3	1,481	41	35,549	12
4-6	839	23	46,869	15
7-9	296	8	29,849	10
10-14	355	10	53,094	17
15-19	202	6	45,418	15
20-24	102	3	34,811	11
25-29	37	1	15,398	5

30-34	9	0.3	3,311	1
		0.0		0.0
	1	2	992	0.3



Rental Apartments



Source:
Toronto Assessment Database.