

## **Tenant Request for Funding in respect of Applications made in 2003 and 2004 at 150 Finch Avenue West**

<b>Date:</b>	April 28, 2008
<b>To:</b>	Community Development and Recreation Committee
<b>From:</b>	General Manager, Shelter, Support and Housing Administration
<b>Wards:</b>	Ward 25 – Don Valley West
<b>Reference Number:</b>	

### **SUMMARY**

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The Tenant Defence Sub-Committee recommended that funding be provided to the four former tenants of 150 Finch Avenue West for legal expenses resulting from Tribunal applications they made in 2003 and 2004, subject to staff confirming the identity of those tenants. This recommendation of the Tenant Defence Sub-Committee will be before the Community Development and Recreation Committee as an action item via a separate communication to the Committee, and this report provides information for the action item, including confirming the identities of the tenants. Funds would come from the Tenant Support Grants Program of the Tenant Defence Fund.

### **FINANCIAL IMPACT**

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There is no new financial impact beyond what will be approved in the 2008 Tenant Defence Fund Program.

### **DECISION HISTORY**

At the September 25, 2007 meeting and at a subsequent meeting on January 22, 2008, the Tenant Defence Sub-Committee heard a deputation from a former tenant of 150 Finch Avenue West who requested funding to cover legal expenses incurred by the tenants over the course of applications made under the Tenant Protection Act to the Ontario Rental Housing Tribunal (the Tribunal) in 2003 and 2004.

The Sub-Committee recommended that “the four tenants involved in the Tribunal applications at 150 Finch Avenue West be given a grant from the Tenant Defence Fund equally up to a maximum of \$4,000.00; subject to their identities being confirmed to the satisfaction of the General Manager of Shelter, Support, and Housing Administration; and requested the General Manager of Shelter, Support and Housing Administration to report to the Community Development and Recreation Committee at its next meeting on February 21, 2008, or the following meeting on April 14, 2008, on information pertaining to the identity of the four tenants”.

This recommendation of the Tenant Defence Sub-Committee will be before the Community Development and Recreation Committee as an action item via a separate communication to the Committee, and this report provides information for the action item, including confirming the identities of the tenants.

## **ISSUE BACKGROUND**

Ms. Giraldo, a former tenant at 150 Finch Avenue West, first requested the City’s help in obtaining compensation under the Tenant Protection Act in September 2005. The request stemmed from actions taken by the landlord in January 2003 to evict the four tenants living in the building at that time. All tenants vacated by March 2003, and none were provided with financial compensation (up to three months rent) or the right to re-occupy their units once construction work was completed.

Since September 2005, staff of Shelter Support and Housing Administration Division reported to the January 6, 2006 meeting of the Tenant Defence Sub-Committee that providing a grant would not assist the tenants’ in disputing the eviction because the time limit for taking legal action had passed (attached as Appendix A).

On September 25, 2007, the City Solicitor reported to the Sub-Committee that a grant would not likely be of assistance as the time limits have passed, and that there do not appear to be any further avenues available to the tenants (attached as Appendix B).

At the September 25, 2007 meeting Ms. Giraldo made a further deputation. She requested that a grant of up to \$4,000 from the Tenant Defence Fund be provided to cover expenses incurred by the tenants for legal representation before the Tribunal. In total, Ms. Giraldo had filed two applications about this matter and two requests for review. All four resultant orders by the Tribunal were dismissals.

As new information was provided by the tenant at the same meeting, the Sub-Committee requested the General Manager of Shelter, Support and Housing Administration to report at its next meeting on a review of the new information submitted by the tenant. At the Sub-Committee on January 22, 2008, as part of the review of the new information (attached as Appendix C), the General Manager concluded that:

“Assessing the fairness of providing funding for actions that were taken in the past is always difficult. In this case, the tenants’ did not request funding in advance of taking action against the landlord which is the approach used for the program. The tenants also did not take advantage of the expertise available from the Outreach and Organizing program. Had Ms. Giraldo applied for a grant at the time of the first application in 2003, it is possible that the Sub-Committee may have recommended that Council approve a grant to cover the costs of that application, had they decided that it was within the spirit and intent of the Tenant Support Grants Program. It is also possible that the outcome of the first application may have been better had the tenant engaged with the Outreach and Organizing program to assist in preparing a case, and the additional applications may have been avoided.

Staff sympathize with the tenants about the loss of their homes in 2003. However, we remain concerned about the example that would be set should a decision be made to fund actions taken by tenants without prior approval and advice. This approach could open the door to numerous claims to fund costly and sometimes inappropriate legal actions taken by tenants, without the benefit of timely and complete information, the ability to direct what actions should be taken or should be avoided, and the ability to consider the claim within a current funding and policy context”.

The Sub-Committee recommended that a grant of up to \$4,000 be approved from the Tenant Defence Fund to cover legal expenses incurred by the tenants. Since the other three tenants of the rental properties did not come forward to request the funding, the Sub-Committee requested staff to contact the tenants to confirm their identity.

## **COMMENTS**

### Identity of Tenants:

The first application was filed by all four tenants on March 31, 2003, for an order determining that the landlord had given the notice in bad faith and requiring the landlord to pay the tenants compensation for vacating the rental units. Four tenants were indicated as the applicants, namely: Andres Feliciano, Claudia Giraldo, Arturo Romero and Diego Silva. After the Tribunal issued an order dismissing the tenants’ application, the tenants filed a request for review of this order, which was also dismissed.

One year later, Ms. Giraldo alone made a second application to the Tribunal (March 31, 2004) for the same reasons given in the first application. She was also alone in filing a request for review of the resultant order. Both the application and review were dismissed.

Staff obtained the contact information and identification documents of the other three tenants from Ms. Giraldo, who had indicated at the January 22, 2007 meeting of the Sub-Committee that she was keeping contact with them. Staff are satisfied that the identities have been confirmed.

## Legal Fees:

The total legal fees (\$2,061) for the first application and first request for review were billed to the four tenants. This included \$1,926 for legal services, \$60 for the group application and \$75 for the request for review. The receipt indicated that all fees for the services had been paid in full. The legal fees associated with the second application and request for review (\$2,475) were billed to Ms. Giraldo alone, and the receipt indicated that all the fees had been paid in full. The total cost for all applications and requests for review, supported by documentation, amounted to \$4,536. In addition, the tenant was claiming disbursements and photocopying fees of \$120, which have not been supported by documentation, and are therefore not included in the total cost. Ms. Giraldo advised at the Tenant Defence Sub-committee that all costs for all actions were borne equally by herself and the other three tenants. In addition, she acknowledged that while the total cost exceeds the \$4,000 she originally requested, she and the other tenants would be satisfied with \$4,000.

The Sub-Committee recommended that funds of up to \$4,000 be granted to the four former tenants at 150 Finch Avenue West, divided equally. Should Council decide to approve a grant for reimbursing the tenants, each tenant would receive \$1,000.

## **CONTACT**

Katherine Chislett, Director  
Housing & Homelessness Supports & Initiatives  
Shelter, Support and Housing Administration Division  
Phone: 416-397-0260  
Fax: 416-338-1144  
Email: [kchisle@toronto.ca](mailto:kchisle@toronto.ca)

Gwynne Cheung, Policy Development Officer  
Housing & Homelessness Supports & Initiatives  
Shelter, Support and Housing Administration Division  
Phone: 416-392-0643  
Fax: 416-338-1144  
Email: [gcheung2@toronto.ca](mailto:gcheung2@toronto.ca)

## **SIGNATURE**

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Phil Brown  
General Manager  
Shelter, Support and Housing Administration Division

## **ATTACHMENTS**

### Appendix A:

Communication (October 27, 2005) from General Manager, Shelter, Support & Housing Administration on 150 Finch Avenue West, Tenant Defence Sub-Committee Meeting on January 6, 2006

<http://www.toronto.ca/legdocs/2006/agendas/committees/td/td060106/it006.pdf>

### Appendix B:

Report (September 11, 2007) from City Solicitor on Tenants Application in respect of I50 Finch Avenue West, Tenant Defence Sub-Committee Meeting on January 6, 2006

<http://www.toronto.ca/legdocs/2008/agendas/committees/td/td080122/it004a.pdf>

### Appendix C:

Communication (January 11, 2008) from General Manager, Shelter, Support & Housing Administration on Tenant Request for Funding in respect of 150 Finch Avenue West (Ward 25 – Don Valley West), Tenant Defence Sub-Committee meeting on January 22, 2008

<http://www.toronto.ca/legdocs/2008/agendas/committees/td/td080122/it004.pdf>