



**Janet
DAVIS**

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September 17, 2009

To: Community Development and Recreation Committee

From: Councillor Janet Davis

RE: Protecting Tenants from Unregulated Electricity Sub-Metering in Apartment Buildings

Dear Committee Members:

Over the past few years, an increasing number of Toronto landlords have imposed sub-metered electricity billing on thousands of tenants without authorization from the Ontario Electricity Board. Removing electricity from “all inclusive” rents has generated an outcry from tenants who have experienced excessive bills and questionable business practices.

On January 28 and 29, 2009, Council adopted a report which outlined concerns about sub-metering (CD21.4 – “Installation of Sub-Meters in Residential Rental Units and its Impact on Tenant Affordability,”), and called on the provincial government to place on a moratorium on sub-metering and immediately enact protections for tenants.

In March 2009, the Ontario Energy Board (OEB) issued a Compliance Bulletin which stated that current regulations do not allow sub-metering in apartment buildings and that all such activities must cease. The OEB subsequently convened a “written hearing” on the matter.

In August, 2009, the Ontario Energy Board issued a Decision stating that:

- All sub-metering installed after November 3, 2005, is null and void, and all bills and agreements related to sub-metering are unenforceable;
- New sub-metering can take place, but only in accordance with a strict set of criteria and standards and through informed consent of tenants; and
- The smart sub-meter service provider has no independent relationship with tenants, and whatever unwinding of current arrangements is required should be done according to rental agreements.

In response to the decision, landlord associations have formally requested a “Review” of the OEB Decision.

Unlike the Mayor’s Tower Renewal Project, sub-metering in rental apartment buildings is not about energy conservation. As groups such as the Low Income Energy Network (includes environmental groups such as Toronto Environmental Alliance, the Canadian Environmental Law Association, and Green\$aver), the Advocacy Centre for Tenants Ontario, and the Federation of Metro Tenants Associations argue, sub-metering is primarily a way for landlords to download the hydro costs of inefficient apartment buildings and appliances to their tenants. Tenants behaviour has relatively little effect on the energy consumption from apartment units. In comparison, landlords have responsibility and control over the appliances, the building insulation and envelop, and the kind of heating used.

The OEB ruling has provided interim protection for tenants and should stand until new legislation and regulations are enacted or a new approach to energy conservation in apartment buildings is developed.

Therefore, I am recommending that:

1. City Council authorize staff to participate in any activities related to a review of the Ontario Energy Board Decision and Order, should a review proceed, to oppose any loss of protection for tenants granted by the Ontario Energy Board's August 13, 2009, Decision and Order.
2. City Council reaffirm its request to the Ontario Government to immediately put in place measures to protect tenants and include the City in the development of any new regulations.
3. City Council request the OEB to investigate all complaints from tenants and vigorously enforce its Decision and Order.
4. City Council request that the Ontario Energy Board and the Ontario Government include the City of Toronto in any developing of legislation or regulations related to this matter, and authorize staff to participate in this process.
5. That the General Manager of Shelter, Support and Housing work with community partners and tenant advocates to ensure that tenants across the City are aware of the OEB ruling and their rights.

I urge the committee to adopt these recommendations so that the City of Toronto can continue its leadership in ensuring that tenants are protected and that true energy conservation is undertaken in buildings across this City.

Sincerely,

A handwritten signature in black ink that reads "Janet Davis". The signature is written in a cursive, flowing style.

Councillor Janet Davis
Ward 31, Beaches-East York