



STAFF REPORT ACTION REQUIRED

Request for Funding from the Tenants' Association of 200 Roehampton Avenue

Date:	December 17, 2009
To:	Community Development and Recreation Committee
From:	General Manager, Shelter, Support & Housing Administration
Wards:	Ward 22
Reference Number:	

SUMMARY

This report addresses a request by 22 tenants residing in a building at 200 Roehampton Avenue for a grant from the Tenant Defence Fund to assist them in obtaining rent abatements from their landlord, Avcan Management as a result of ongoing maintenance issues. The City's Municipal Licensing and Standards Division made 43 orders in respect of Roehampton in July, 2008, several of which remain outstanding.

RECOMMENDATIONS

The General Manager, Shelter, Support and Housing Administration, recommends that Council:

1. approve a grant of up to \$6,000 to the tenants' association of 200 Roehampton Avenue from the 2009 Tenant Support Grants Program to assist the tenants towards any payment of costs for legal assistance; and
2. authorize the General Manager, Shelter, Support and Housing Administration, to take necessary actions to implement Council's approval.

Financial Impact

There is no new financial impact. Funds are available within the 2009 approved operating budget for this purpose.

ISSUE BACKGROUND

At its meeting of November 23, 2009, the Tenant Defence Sub-Committee requested that the General Manager, Shelter, Support and Housing Administration, report directly to the January 8, 2010 meeting of the Community Development and Recreation Committee regarding a request by the tenants at 200 Roehampton Avenue for a Tenant Defence Fund grant to defend their application for a rent rebate/reduction due to the condition of their building
(<http://www.toronto.ca/legdocs/2009/agendas/committees/td/td091123/tddd.pdf>).

The tenants' application to the Landlord and Tenant Board (LTB) for rent abatements concerns the condition of the building which the tenants believe has resulted in the loss of reasonable enjoyment of their tenancies. Over a quarter of the residents of Roehampton applied to the LTB for a rent abatement, which would provide a reduction in rent to compensate tenants for loss of enjoyment of their rental property due to the condition of the building. Of those, 22 are now applying for this grant.

Throughout 2008 and 2009, the tenants notified the landlord of numerous maintenance issues impacting the health and safety of their rental building:

- Dirty common spaces, including hallways and staircases;
- Wet and dirty laundry room;
- Overflowing garbage bins as a result of irregular maintenance;
- Lack of snow removal from the rental building's driveway, sidewalks, rear of the building, and front of the underground garage;
- Rotting debris at the rear of the apartment building;
- Poorly maintained underground garage;
- Security concerns as a result of theft and open underground garage;
- Elevators regularly in-operational;
- Dirt and debris left in corridors as a result of renovations, requiring that the tenants clean themselves before entering their individual apartments;
- Renovations taking longer than what tenants had been informed to expect;
- Locker rooms locked without access provided to tenants;
- Rodents, cockroaches, and bed bugs throughout the building;
- Concrete falling off the balconies and in the stairwell at the back entrance; and
- Concerns with discoloured and warm drinking water.

The tenants have had little communication from the landlord. They report that letters sent to the landlord about these matters were not acknowledged and not responded to. The tenants also claim that they were not able to access the landlord or the landlord's agent during office hours to discuss these matters in person.

The City's Municipal Licensing & Standards Division investigated 200 Roehampton a number of times in 2008 and 2009, and issued a property standard work order on July 8, 2008 that identified 43 deficiencies. The deficiencies included: garbage and renovation waste strewn across the rear of the property, damaged walls and ceilings, including holes

and cracks, and stairs in poor repair. The deficiencies were consistent with the complaints the tenants had been making to their landlord. Eleven deficiencies remain open.

In November 2008, the tenants made a joint application to the LTB seeking rent abatements as a result of the condition of the rental property. The conditions noted in their application were those which related to common space within the rental building and, therefore, impacted all of the tenants making the application.

On January 13, 2009, the LTB hearing was held. The landlord had legal representation; the tenants did not. The LTB adjudicator issued an interim order dismissing many of the tenants' requests and splitting up the application so that the tenants could not appear as a group all at once, despite the fact that the application related to common areas of the building. The tenants sought a review of the interim order. On April 2, 2009, the review was heard and was granted in favour of the tenants.

On September 9, 2009, the process began again with a new hearing where preliminary issues were resolved. As a result of their initial experience, this time the tenants obtained legal representation for the hearing, and also for the next hearing that took place on December 10, 2009. Another hearing will be scheduled as soon as possible.

The Tenants' rents fall below the amount prescribed in the Tenant Defence Fund Bylaw. The Tenants have advised us that they need help to pay the legal costs associated with the rent abatement. Due to procedural issues at the LTB, the tenants did not feel they could go unrepresented at the hearing in September 2009, and again in December 2009. They are concerned that they may need to withdraw on the basis of financial risk if they do not receive funding. If approved, the funding would be retroactive to September, 2009, when the tenants retained the lawyer. The tenants were not able to finalize their application for a grant and have such funding approved prior to retaining the lawyer.

Analysis

A key principle of the Tenant Support Grants Program is to help tenants with affordability issues. The Tenant Support Grants Program enables groups of tenants with rents that fall below mandated limits (15% above the average City-wide rents as reported by Canada Mortgage and Housing Corporation) to access legal assistance where landlords have applied for above-guideline rental increases or before the Ontario Municipal Board on landlord applications to demolish or convert affordable rental housing. The Program assists tenants who would otherwise not be able to access legal assistance towards protecting affordable rental housing supply in Toronto.

In this case, the Roehampton tenants have advised us that they need help to pay the legal costs of their dispute with the landlord. They originally resisted seeking legal assistance as the cost was prohibitive. As a result of various delays, and the LTB's interim decision, they ultimately decided they could not proceed with their case unless they had legal help.

The tenants are concerned that the landlord has not upheld its legal obligations under section 20(1) of the *Residential Tenancies Act*, which requires landlords to provide and maintain rental residential complexes in good repair and in compliance with health, safety, housing and maintenance standards. In the opinion of the tenants, their building has been unsafe and unsanitary for some time, and the landlord has not been responsive to their concerns. Moreover, the City's Municipal Licensing & Standards Division investigated the building a number of times in 2008 and 2009. They issued an order on July 8, 2008 that identified 43 deficiencies. Eleven of these deficiencies remain open.

Upon review, staff recommends providing a grant of up to \$6,000 to the tenant association at 200 Roehampton for the following reasons:

1. Over 200 tenants lived in stressful, uncertain and potentially hazardous circumstances, and continue to do so as the landlord corrects the issues within the building. The rent abatement/reduction is a retrospective inquiry. Many of the tenants wrote to the landlord, but were unable to have the issues dealt with successfully. While the landlord has taken steps to correct the deficiencies identified by the City's Municipal Licensing & Standards Division, it remains that the tenants lived in difficult conditions for some time. Eleven deficiencies in the building have not yet been resolved.
2. The outcome of the LTB hearing, if favourable to the tenants' position, may help demonstrate the importance to landlords of being responsive to tenant requests to address serious maintenance concerns and in complying with City property standards orders on a timely basis. For this reason, it is in the City's interest to support the tenants in proceeding with their application, rather than having them withdraw on the basis of financial risk.
3. While staff do not usually support retroactive grants, this case warrants special consideration. Initially, the tenants attempted to resolve the matter without seeking a grant from the City. It was only when the tenants experienced delays and the severance of their application at the LTB that they sought a grant. Their application was submitted (although incomplete) prior to their retention of a lawyer.
4. A grant related to rent abatement would be consistent with prior Council decisions. The amount recommended (\$6,000) is consistent with past decisions and with the limit set on grants for Above Guideline Increase applications in the Bylaw. In 2009, Council approved a grant (up to \$10,000) to the tenants of 50 Rosehill to help them defend their landlord's appeal to the Divisional Court on a rent abatement issue. In 2005, Council had provided a grant (\$5,000) to the Fountainhead Tenants Association for the tenants' application to the Ontario Rental Housing Tribunal (now the LTB) for rent abatements due to the loss of use of a swimming pool and some treed lots due to an infill development on site.

5. The tenants have shown a great deal of commitment to the case and initially sought to resolve the matter independently.

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SIGNATURE

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