



STAFF REPORT ACTION REQUIRED

Jurisdictional Scan and Alternatives to Licensing Landlords

Date:	June 11, 2015
To:	Licensing and Standards Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2015\Cluster B\MLS\LS15016

SUMMARY

This report responds to Licensing and Standards Committee's direction that the Executive Director, Municipal Licensing and Standards review the feasibility, merits and experience of other jurisdictions, in licensing landlords.

This report provides only a preliminary overview and draws no conclusions on licensing landlords in the City of Toronto. It summarizes existing licensing regimes in Canada, the United States and the United Kingdom in order to provide clarity on the different ways residential rental properties are being licensed. This report also provides information on alternative approaches akin to licensing.

The request to review the feasibility of licensing landlords came as part of the annual report on the Multi-Residential Apartment Building (MRAB) Audit and Enforcement Program. For this reason, staff also provide information on options for recovering the costs of the MRAB program.

Municipal Licensing and Standards has identified that more work is needed, including issue identification, public and stakeholder consultation and performing cost analyses.

Legal Services was consulted in the preparation of this report.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. Licensing and Standards Committee receive this report for information.

Financial Impact

There are no financial implications beyond what has already been approved in the current year's budget.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of June 26, 2014, Licensing and Standards Committee requested the Executive Director, Municipal Licensing and Standards review the feasibility, merits and experience at other jurisdictions, in licensing landlords in Toronto.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.LS29.4>

ISSUE BACKGROUND

Toronto has the legal authority to license residential rental properties under the *City of Toronto Act, 2006 (COTA)* provided that it does so for a proper municipal purpose. In previous attempts to address problem landlords – especially those who allow their properties to fall into disrepair, Municipal Licensing and Standards established the MRAB Audit and Enforcement Program, launched on December 1, 2008.

On June 26, 2014, Licensing and Standards Committee requested the Executive Director, Municipal Licensing and Standards review the feasibility of licensing landlords as part of the annual MRAB program review.

COMMENTS

Staff conducted a jurisdictional scan of licensing, registry and voluntary accreditation regimes in Canada, the United States and the United Kingdom. Outlines of these various regimes are contained in each of Attachments 1 and 2.

The objective of these regimes is to ensure safe and adequate rental housing. Any proposed regulations for the City of Toronto would include full cost recovery of staff time to administer and enforce the regulations.

Jurisdictional Summary: Licensing

Licensing regimes vary in their scope (e.g. property type and/or geographic area captured) and their requirements (e.g. inspections, etc.). Attachment 1 lists jurisdictions that license all or almost all rental property types (e.g. single family home, duplex, mid-rise, high-rise, etc.). Attachment 2 lists jurisdictions that only license rental properties with five or fewer units.

Objectives

At its most basic, a licensing regime requires that rental property owners provide contact information to the municipality, creating a database of property owners and rental properties. A local agent or emergency contact is often required where the property owner does not reside locally. Contact information is also provided to the tenant.

Licensing regimes may require that property and safety standards are met as part of the initial application process. Properties not in compliance would have to perform the necessary maintenance and repairs. Deficiencies are identified through property inspections or the completion of self-certification checklists by the property owner. Inspections or self-certification may also be required on a scheduled basis or when the licence is up for renewal.

Inspecting proactively, instead of based on complaints, and performing maintenance proactively with the aid of a self-certification checklist identifies problems early or problems that may not otherwise be reported. Tenants may not have the technical expertise to identify dangerous structural or electrical issues, or may not report violations due to fear of retaliation or because they do not know their rights. Toronto currently engages in proactive audits of apartment buildings through the MRAB program.

Licensing may further require that rental property owners provide tenants with certain information, such as a copy of the self-certification checklist, a written lease agreement, and/or an information booklet. Contact information, a copy of the licence, or information on making complaints may also be required to be posted on site. Informing tenants of their rights and obligations may assist in ensuring standards are met and better understood.

Lastly, all licensing regimes stipulate that failure to comply with applicable regulations may result in the suspension or revocation of the licence. Where there are concerns with a rental property, conditions may be placed on the licence to bring the property into compliance. These options would need to consider the various legislative regimes already in place that govern rentals in Ontario, including the *Residential Tenancies Act, 2006 (RTA)*.

Considerations

Concerns have been raised that a licensing regime may have unintended negative impacts on tenants. Licensing fees may be passed on to tenants, increasing rents and decreasing the availability of affordable housing. The *RTA*, however, limits the ways rent can be increased.

De-housing or displacing tenants when a licence is suspended or revoked is another consideration. A study by the University of Texas Law School found that American cities enacting rental property registration or licensing ordinances did not experience an increased displacement of tenants. The objective of any municipality is to work with a rental property owner to bring a property into compliance, not to close the property. In situations where life safety is threatened, properties should be vacated.

Jurisdictional Summary: Mandatory Registration

An alternative to licensing is the mandatory registration of rental properties or rental property owners. A registry creates a database of rental property owners (and if applicable, their local agent) and rental properties. Similarly to licensing, this may

improve accountability, responsiveness to maintenance and repair issues, and deter absentee landlordism. It also allows for problem properties and property owners to be identified and tracked, and property issues to be prioritized. A fee is charged for registration and may be charged for renewal. Registration fees are often nominal.

Jurisdictional Summary: Voluntary Accreditation and Certification

Another alternative identified is voluntary landlord accreditation and certification programs. These initiatives aim to improve rental housing by increasing a landlord's awareness of their obligations, incentivizing the proactive maintenance of properties and improving accountability and responsiveness. Landlords may be required to participate in training, voluntary inspections or self-certify that properties comply with applicable regulations. There is often no fee for voluntary accreditation, though landlords may be required to pay for training courses and inspections.

A final consideration is whether these approaches best ensure safe and adequate housing. Proactive enforcement of existing regulations (e.g. property standards bylaws, etc.) has been identified by many jurisdictions as the most effective approach. Some Canadian municipalities have explored licensing and instead decided to engage in proactive inspection and enforcement efforts (e.g. Guelph, Hamilton). Toronto similarly introduced the MRAB program for this purpose. Many American municipalities include proactive property inspections by the municipality or the property owner as part of their registration or licensing programs (examples are outlined in Attachment 1).

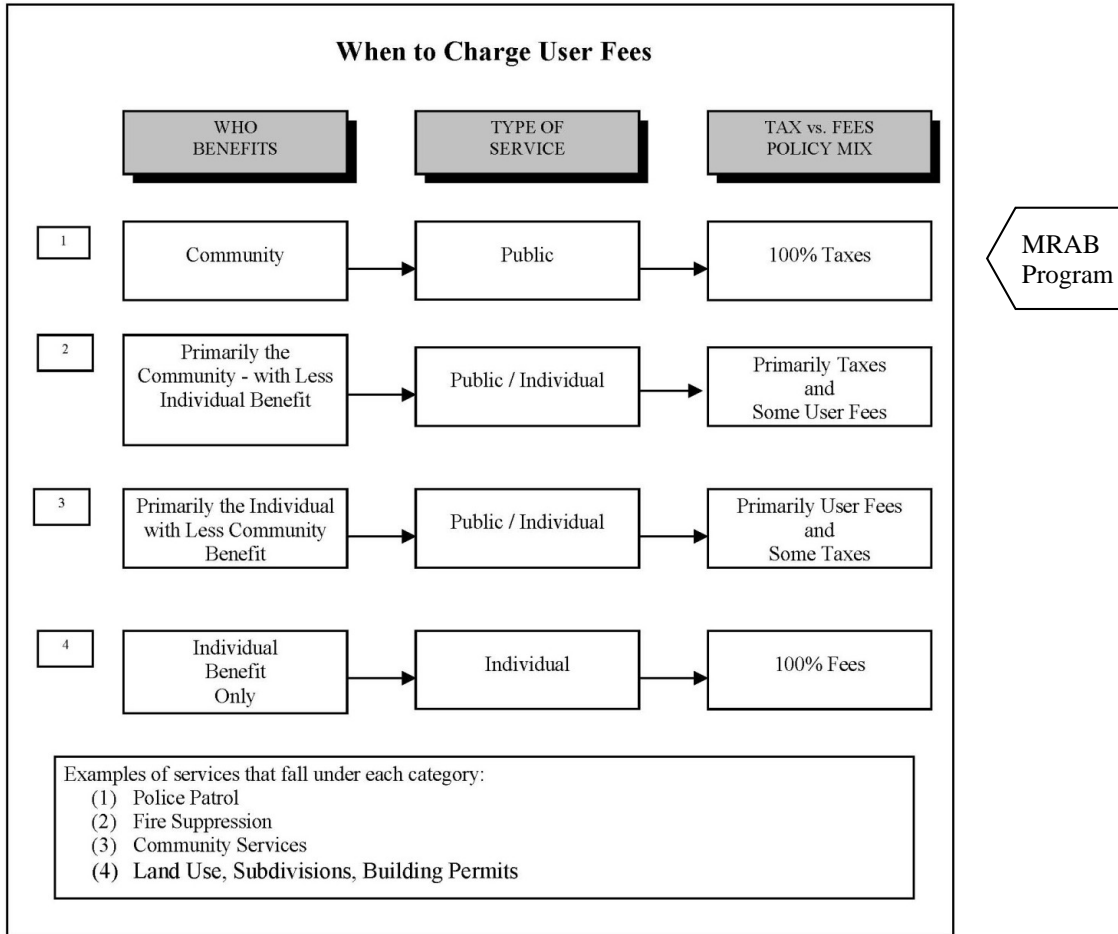
Fee Based Cost Recovery

The jurisdictional scan revealed that municipalities with proactive audit and enforcement programs similar to Toronto's MRAB program charge the rental property owner an annual program fee. This is often done as a per rental unit registration fee (e.g. New York City, Los Angeles). Toronto's MRAB program does not charge a program fee, and is instead funded through the municipal property tax base. Re-inspection fees recover some of the costs of the MRAB program. If one of the objectives of implementing a licensing regime is to recover the costs of investigation and enforcement efforts, a user fee is the appropriate approach.

Under the City of Toronto User Fee Policy, the City is permitted to charge a user fee "to finance those City services and goods that provide a direct benefit(s) to specific users". User fees may fully or partially recover the cost of a municipal service. User fees that achieve partial recovery are supplemented by the municipal property tax base.

The User Fee Policy states that City services should be reviewed at least once every four years to determine if the cost of providing the service should be recovered through user fees or funded from the property tax base. A determination is made based on the reach of the service (i.e. public service, private service or shared service).

The User Fee Policy provides a decision matrix to determine when and how a user fee should be charged.



Source: City of Toronto User Fee Policy Guidelines and Procedures (2011)

The MRAB program is currently 100% funded through property taxes. This category applies to services that benefit the entire community. The MRAB program provides a direct benefit to tenants of apartment buildings, owners of apartment buildings and the communities surrounding apartment buildings. Municipal Licensing and Standards will undertake a review of the MRAB program to determine if it should continue to be funded through property taxes or user fees or a mix of both.

In determining a user fee, the full cost of providing the service is the starting point, regardless of whether the full cost will be recovered through the fee. The MRAB program's budget for 2015 is \$1,446,418. Toronto has 3,578 apartment buildings with 304,104 rental units. As a preliminary estimate and for example, an annual fee of \$4.76 per rental unit would fully fund the MRAB program's 2015 budget.

If the MRAB program is fully or partially funded through a user fee, then the current budget allocation could be reallocated to other priorities, including a tenant rights campaign and bylaw enforcement in parks, as examples.

Next Steps

Should Licensing and Standards Committee direct Municipal Licensing and Standards to undertake further work on exploring regulatory options for ensuring safe and adequate rental housing in Toronto and/or determining a user fee for the MRAB program, Municipal Licensing and Standards proposes the following steps.

- **Continued Research and Issue Identification**
Staff will deepen its jurisdictional scan to identify best practices and explore the main issues affecting rental housing in the City of Toronto. This research will define the scope and goals of the consultations.
- **Detailed Financial Analysis**
This will include an analysis of user fees for the MRAB program. This may include a financial analysis of other regulatory options for rental properties in Toronto.
- **Stakeholder and Public Consultation**
Municipal Licensing and Standards will engage in extensive consultation with key stakeholders including tenant advocates and landlords to assess the challenges and opportunities of regulating residential rental properties. The consultation methods may include broad consultations, focus groups and online surveys.
- **Report Back to Licensing and Standards Committee**
Staff will analyze the results of the research and consultation and make recommendations to Licensing and Standards Committee.

CONTACT

Carleton Grant
Director, Policy and Strategic Support
Municipal Licensing and Standards
Tel: 416-338-5576
Email: cgrant@toronto.ca

SIGNATURE

Tracey Cook, Executive Director
Municipal Licensing and Standards

ATTACHMENTS

- Attachment 1: Regulatory Regimes That Apply to the Majority of Rental Properties in a Jurisdiction
Attachment 2: Regulatory Regimes Targeting Rental Properties with Five or Fewer Units