



STAFF REPORT ACTION REQUIRED

Multi-Residential Apartment Buildings (MRAB) Audit and Enforcement Program – 2015 Annual Report

Date:	May 3, 2016
To:	Tenant Issues Committee Licensing and Standards Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2016\Cluster B\MLS\LS16006

SUMMARY

This report provides the annual update on the Multi-Residential Apartment Buildings (MRAB) Audit and Enforcement Program. The goal of the program is to ensure that minimum property and maintenance standards within multi-residential rental properties are maintained in accordance with the City's property standards by-laws and other applicable regulations. The goal contributes to ML&S's overarching vision that every person deserves a safe, secure and decent place to live. Since 2008, the program has audited 1,046 rental apartment buildings in Toronto.

This report describes operational enhancements undertaken in 2015 to improve efficiency and increase the impact of the MRAB program on the quality of rental housing in Toronto. The enhancements focussed on resolution and escalated enforcement, increased landlord engagement, new collaborations with stakeholders and a city-wide tenant education campaign. In response to requests from tenant organizations, this report proposes that City Council delegate to the Executive Director, Municipal Licensing and Standards the authority to waive witness fees for Landlord and Tenant Board proceedings when Municipal Standards Officers are summoned to attend by a tenant.

This report also provides 2015 year-end data related to program activities. In 2015, MRAB staff conducted 193 pre-audit assessments and 84 audits of multi-residential apartment buildings. Staff also conducted 1,917 re-inspections, closing 575 orders and rectifying 6,607 deficiencies. In response to wilfully non-compliant building owners, staff conducted six remedial actions that resulted in \$111, 331.94 being added to the owners' property taxes. As a result of these activities, the rate of compliance with orders in private and TCH-owned buildings has increased from 82% to 89% since the last annual report.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. City Council delegate to the Executive Director, Municipal Licensing and Standards the authority to waive witness fees for Landlord and Tenant Board proceedings when Municipal Standards Officers are summoned to attend by a tenant.

Financial Impact

There is a minimal financial impact expected from adopting the recommendation in this report. There would be a loss in revenues resulting from the waiving of fees for Landlord and Tenant Board proceedings when Municipal Standards Officers are summoned to attend as witnesses on behalf of tenants. The witness fees are \$53.00 and MSOs are summoned to proceedings around 6 times a year. The financial impact of waiving these fees would be approximately \$318.00 annually in lost revenues to the City.

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

DECISION HISTORY

At its meeting of June 25, 2015, Licensing and Standards Committee requested the Executive Director, Municipal Licensing and Standards to report to Licensing and Standards Committee on including the following in the MRAB program:

- Pre-determined timelines, by project type and scope, for landlords to comply with City work orders resulting from non-compliance with City by-laws
- Notices to tenants of audits
- Providing copies of in-suite orders to tenants
- Remedial action protocols and timelines
- Enforcement measures to compel landlords to undertake “best practices” in bed bug treatment, including “blocking”
- Providing notices to affected tenants of Property Standards Committee appeals

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS5.3>

ISSUE BACKGROUND

The Multi-Residential Apartment Buildings (MRAB) Audit and Enforcement program is a pro-active building inspection program launched on December 1, 2008. The purpose of the program is to improve the quality of multi-residential rental housing belonging to both private and public landlords.

The MRAB program aims to improve the quality of rental housing in Toronto through the following program goals:

- Prioritize the enforcement of violations that pose the greatest risk to the safety and health of tenants.
- Increase compliance with property standards by-laws.
- Generate greater awareness about property standards and the enforcement process among tenants and landlords.
- Ensure minimum property standards are sustained over time.

MRAB focuses on purpose-built, non-condominium, residential rental accommodations of 10 or more dwelling units. An MRAB audit includes a comprehensive inspection of all common areas of a building such as the garage, mechanical rooms, waste disposal facility, lobby, hallways, laundry room(s) and exterior areas. Since 2008, the program has audited 1,046 buildings across the city. A map of audits conducted from 2008 to 2015 is contained in Attachment 1.

Pre-audit Assessments

Starting in the fall of 2014, MRAB began using a risk-based selection process to prioritize the audit of buildings with conditions that may pose a greater risk to the health and safety of tenants. After receiving an audit request, MRAB staff conduct a preliminary assessment of the building, which includes surface level observations of the property and research into the building's property standards history. Staff use the risk-based assessment tool contained in Attachment 4 to evaluate the state of the building. The tool focuses on three main criteria: health and safety conditions, structural sufficiency and the building envelope.

Staff have refined the pre-audit assessment process to include an immediate response to identified health and safety concerns and enhanced communication with property owners. Health and safety issues are addressed immediately during the assessment through the issuance of an order or Notice of Violation. If the property owner fails to comply, the City will initiate remedial action.

If the condition of a building necessitates an audit, staff contact the owner/property management to provide an overview of the deficiencies noted during the pre-assessment so they have the opportunity to address the deficiencies prior to the audit.

Audits

The property owners and tenants are informed of upcoming audits through notifications posted in the common areas of the building and surrounding multi-residential rental properties at least 10 days prior to the scheduled audit.

A mobile administrative office is present during each audit for tenants to bring forward concerns or to request an in-suite inspection on the day of the audit. Occupants can also

initiate complaints about their units at any time by contacting 311. In both cases, tenants are provided with a copy of the property standards order relevant to their unit.

As by-law violations are identified during the audit, MRAB officers issue orders to enforce compliance within a set time-frame. Time frames are dependent upon the scope of work needed and take into consideration any capital repair program the owner has in place.

Re-inspections

Re-inspections are conducted to ensure that landlords undertake the mandated repairs. ML&S charges re-inspection fees in order to recover the actual costs of having officers attend properties where owners failed to comply with orders. As per Toronto Municipal Code, Chapter 441, Fees and Charges, Appendix C – Schedule 12, fees are charged for each inspection at a minimum rate of \$94.00 per officer for the first hour, and \$55.00 per hour thereafter.

Property owners may appeal the orders and are entitled to a hearing before the Property Standards Committee. The Committee may confirm, modify or rescind an order as well as extend the time for compliance.

Enforcement Actions

If the landlord does not comply with the order by the set date, the City may prosecute the offending landlord and/or undertake remedial action. Remedial action is a City initiated action to hire contractors to rectify the property violation. The costs incurred from this enforcement activity are added to municipal property taxes.

Staffing and Budget

The Investigation Services Unit in ML&S is responsible for the operation of the MRAB program. A team of 16 Municipal Standards Officers conduct building pre-audits, audits and re-inspections across the city. The program also includes a supervisor and one dedicated clerical support person.

Table 1 below summarizes the budgeted and actual costs of the MRAB program, which are identified in ML&S' operating budget as a stand-alone cost centre (MS1212).

Table 1: MRAB Budget, 2015 - 2016

YEAR	BUDGET	ACTUAL
2015	\$1,564,096	\$1,396,873
2016	\$1,783,670	

COMMENTS

In 2015, MRAB continued to make notable program improvements to enhance its operational effectiveness and increase the impact of the program on the quality of rental housing in Toronto. In particular, improvements were advanced in the following areas:

- Resolution and escalated enforcement
- Tenant engagement and notification
- Landlord engagement
- Partnerships with stakeholders and other regulatory agencies
- Revised service standards

Attachment 2 contains a comprehensive summary of MRAB's program activities from 2008 to 2015, including the rate of compliance with issued orders, types of deficiencies identified during audits and account of enforcement actions undertaken.

Resolution and escalated enforcement

MRAB continues to focus on the resolution of property standards issues through re-inspections and escalated enforcement. In 2015, the MRAB team conducted 1,917 re-inspections, closing 575 orders and rectifying 6,607 deficiencies. As a result, the rate of compliance with orders identified during audits has increased to 89% from 82% at the end of 2014.

In cases of non-compliance and a lack of cooperation from owners, staff has increased engagement with building owners and escalated enforcement actions where needed to remedy the deficiencies. In total, six remedial actions were undertaken against non-compliant building owners in 2015. The cost was \$111,331.94, which was recovered through the owner's property taxes. Attachment 3 contains case studies of MRAB remedial actions and their impacts on the quality of housing.

Tenant engagement and notification

Licensing and Standards Committee directed staff to increase stakeholder outreach, engagement and education. In particular, Committee requested that affected tenants receive notices of audits, notices of appeals to Property Standards Committee as well as copies of in-suite orders.

Tenants are informed of upcoming audits through notifications posted in common areas of the building and surrounding multi-residential apartment buildings at least 10 days prior to the scheduled audit. The audit schedule is also posted on the ML&S website. A mobile administrative office is present during each audit for tenants to bring forward concerns or to request an in-suite inspection on the day of the audit. In 2015, the MRAB mobile office assisted 329 tenants and received 89 repair requests.

Tenants are provided with a copy of the property standards orders relevant to their unit. ML&S staff has also begun to send copies of in-suite orders to tenants using registered mail.

In regards to notifications of appeals to Property Standards Committee, ML&S staff are considering in the proposed licensing framework for multi-residential rental properties a requirement that landlords develop a notification plan to inform tenants of service disruptions, order appeals, etc., as well as posting the information in a centrally located notice board.

In 2015, ML&S and Strategic Communications staff developed a citywide education campaign focused on tenant rights and responsibilities in consultation with tenant and landlord groups. Components of the campaign included advertising in newspapers (English and multilingual), websites, TTC interiors, street level posters (convenience stores, etc.), elevators in apartment buildings, and more. Other components included posters, a Tenant Rights 101 public education piece, a dedicated channel on City of Toronto website (www.toronto.ca/rentalrights) and social media.

The campaign has also received support from community partners. The GTAA is encouraging their membership to display the education posters in strategic locations of their buildings. Non-GTAA members are displaying the education pamphlets when requested by ML&S staff during pre-audit assessments and building audits.

Landlord engagement

As previously outlined, staff have formalized a selection methodology for audits to assist in prioritizing the efforts of the MRAB team on buildings that pose a greater risk to the health and safety of tenants. Staff receive audit requests from tenant organizations, Councillors, ML&S staff and other City divisions such as Toronto Fire Services. In 2015, the MRAB team visited 193 buildings to conduct pre-audit assessments. A map of these locations is contained in Attachment 1 of this report.

During the pre-audit assessments, staff have increased communication with property owners to expedite maintenance and repairs prior to a building audit. Staff provide property owners with a building envelope inspection guide and inform them about the deficiencies identified during the pre-audit assessment. This has resulted in a number of buildings such as 4500 Jane Street proactively completing repairs before the scheduled audit.

MRAB staff also engage property owners prior and throughout the audit to identify capital repairs that may be in place or scheduled in the immediate future. The property owner is also invited to develop an Action Plan with staff in order to expedite repairs and reduce the number of appeals to Property Standards Committee. The Action Plan prioritizes health and safety improvements, sets achievable deadlines for the completion of orders and incorporates the building's larger capital improvement plans. Since May

2015, MRAB staff received and reviewed 161 Action Plans with property owners and building management companies.

Revised Service Standards

In the 2013 MRAB annual report, service standards were introduced to ensure both operational effectiveness and that the program was meeting stakeholder needs.

2013 Service Standards

Action	Service Standard
Complete pre-audit assessment after an audit request is received	Within 10 days
Conduct building audit after pre-audit assessment	Within 20 days
Issue orders after the building audit	Within 10 days
Post audit activity reports on the website after orders are issued	Within 5 days
Conduct re-inspections after an order's expiry date	Within 5 days
Decisions regarding the appropriate enforcement action after re-inspection, if the property owner fails to comply with a confirmed order	Within 5 days

Since 2013, the MRAB program has undertaken notable operational changes, including increased engagement with building owners before and after audits and the implementation of an Action Plan process. The program has also identified the opportunity to improve response time to audit requests from 10 days to 5 days. To reflect these operational changes and enhancements, staff have reviewed and identified the following service standards for the MRAB program.

2016 Service Standards

Action	Service Standard
Complete pre-audit assessment after an audit request is received	<i>Within 5 days</i>
Conduct building audit after pre-audit assessment	Conduct audit within 20 days.
Issue orders after the building audit a. No owner engagement b. <i>Owner engagement in action plan</i>	a. within 10 days b. <i>within 20 days</i>
Post audit activity reports on the website after orders are issued	Within 5 days
Conduct re-inspections after an order's compliance date.	Within 5 days
Decisions regarding the appropriate enforcement action after re-inspection, if the property owner fails to comply with a confirmed order	Within 5 days

Partnerships with stakeholders and other regulatory agencies

Tenant and Landlord Organizations

In 2015, staff continued to deepen their engagement with key tenant and landlord organizations in the City and the Province to learn about the needs of their members, collect feedback and generate awareness about the MRAB program and its continuing enhancements.

Staff hosted meetings with members of ACORN (Association of Community Organizations for Reform Now), ACTO (Advocacy Centre for Tenants Ontario), FMTA (Federation of Metro Tenants Association), and representatives from various legal clinics that provide assistance to tenants. As a result of these meetings, MRAB and ACTO staff organized three joint-training sessions to learn about each other's respective roles and the existing processes for property standards complaints and investigations.

MRAB staff has also engaged the Greater Toronto Apartment Association (GTAA) to collect feedback on program improvements such as the risk-based assessment tool and enhanced engagement with building owners prior to audits. Staff developed a building envelope inspection guide to help building owners better understand what officers are looking for during the building audits. This guide has been distributed by the GTAA via their web site and is also distributed by MRAB staff during pre-audit assessments.

MRAB and other Regulatory Agencies

MRAB staff are building partnerships with other regulatory agencies to strengthen the capacity of the program and improve the quality of multi-residential housing in Toronto.

The Electrical Safety Authority (ESA) is the administrative authority mandated by the Province of Ontario to enhance public electrical safety in the province through education, training and the enforcement of regulations such as the Ontario Electrical Safety Code. Since the beginning of 2015, ESA has been participating in MRAB building audits. ESA Inspectors have issued 90 orders relevant to violations identified during these inspections. Of those orders, 10 were deemed immediate safety hazards.

Collaboration with Toronto Fire Services (TFS) has resulted in a joint inspection protocol between the two divisions. TFS attends buildings scheduled for an MRAB audit and at the conclusion of the audit, inspectors debrief with MSOs and review results of their inspections to ensure deficiencies are addressed under the appropriate legislative authority.

Other government agencies and City divisions such as TSSA (Technical Standards Safety Authority) and Toronto Building are engaged when issues such as structural integrity, fuel safety and elevator safety are uncovered during building audits.

Toronto Community Housing Corporation

MRAB and Toronto Community Housing Corporation (TCHC) staff have developed a collaborative approach to address all outstanding orders while ensuring conditions that compromise the health and safety of tenants are addressed immediately. Both MRAB and TCHC have designated staff to facilitate communication and coordinate Action Plans to effectively reduce and manage all outstanding orders and deficiencies. As a result of this engagement, the compliance rate for deficiencies in TCHC buildings has increased from 61% at the end of 2013 to 85% by the end of 2015.

Other

MRAB staff are members of The RentSafe Advisory Committee. This is a three-year initiative, led by the Canadian Partnership for Children's Health and Environment (CPCHE). The initiative seeks to address indoor environmental health risks affecting low-income tenants in both urban and rural communities of Ontario. The committee is intended to meet four times per year for the duration of the initiative.

Waiving witness fees

Under the *Statutory Powers Procedure Act* (SPPA), tenants and landlords at the Landlord and Tenant Board are required to pay a fee of \$53.00 when they summon MSOs as witnesses in the proceedings. MSOs are summoned to the Board on average 6 times a year. Tenant advocacy groups such as ACTO have requested the fee be waived because it poses financial barriers for many tenants. Considering the minimal costs to the City and the benefit to tenants, this report proposes that City Council delegate authority to the Executive Director, Municipal Licensing and Standards to waive witness fees for MSOs that attend Landlord and Tenant Board proceedings on behalf of tenants.

Predetermined timelines and protocols

Licensing and Standards Committee requested that staff develop pre-determined timelines by project type and scope for compliance with City work orders as well as remedial action protocols and timelines. Due to the varied nature of deficiencies identified during building audits, it would be impractical to standardize timelines for work orders. MSOs determine compliance deadlines based on their knowledge, the extent of the property standard issue and risk it poses to health and safety. Similarly, remedial actions are all unique and contingent on a number of factors including the nature of the deficiency and the response from landlords.

Enforcement and pest control

Licensing and Standards Committee directed ML&S to incorporate enforcement measures that would compel landlords to undertake best practices in bed bug treatment, including "blocking." The City of Toronto does not have the authority to direct property owners on what methodologies to use to address property standards deficiencies. Staff

can require pest issues be resolved, but the onus is on the property owner to hire a competent pest control company.

To promote best practices in bed bug treatment, ML&S will develop educational material for landlords and property management companies and disseminate it through its stakeholder networks and website. ML&S staff are also considering in the proposed licensing framework for multi-residential rental properties, a requirement for landlords to develop a pest management plan that staff would review to assess if it incorporates industry best practices such as blocking.

Ongoing Work

ML&S staff continue to explore partnerships with external government agencies such as Enbridge and Toronto Hydro to strengthen the capacity of the MRAB program. Staff are establishing contacts with the Insurance Bureau of Canada and other financial institutions to facilitate access to audit results where necessary.

Improvements to the online enforcement and compliance records are also ongoing. Staff are consulting relevant stakeholders to identify their informational needs and ways to improve the accessibility of online records for tenants and other users. These web enhancements necessitate operational adjustments and database revisions that are being planned and incorporated into future program changes.

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ATTACHMENTS

- Attachment 1: Map of MRAB audit locations, 2008-2015 and Map of MRAB pre-audit assessment locations, 2015
- Attachment 2: Annual statistics and analysis for MRAB activities, 2008-2015
- Attachment 3: MRAB case studies, 2015
- Attachment 4: Risk-based assessment tool for audit selection