



# Landlord's Self-Help Centre

*A community legal clinic funded by Legal Aid Ontario*

15<sup>th</sup> Floor - 55 University Avenue  
Toronto, Ontario M5J 2H7

---

November 6, 2017

Toronto City Council  
c/o City Clerk's Office, Secretariat  
100 Queen Street West  
City Hall  
10th Floor, West Tower  
Toronto, ON  
M5H 2N2

## **Re: Tenant Defence Fund Review CD23.7**

We are writing on behalf of Landlord's Self-Help Centre (LSHC) to share our comments on the Community Development and Recreation Committee's recommendations regarding the Tenant Defence Fund Review.

Landlord's Self-Help Centre (LSHC) is a non-profit specialty community legal clinic funded by Legal Aid Ontario and mandated to provide services to Ontario's small scale landlord community. This community represents the secondary rental market and plays a vital role supplying affordable housing across the province. LSHC assists thousands of small landlords each year navigate the regulatory environment to address disputes and conflicts related to residential tenancies. Through summary legal advice and educational programs these small landlords develop a better understanding of their rights, responsibilities and obligations as housing providers. LSHC's mandate also requires that we provide input on potential changes to landlord-tenant legislation to represent the interests of the community we serve.

LSHC would like to comment on items 7(a) to (f) of the Committee's recommendations regarding above-guideline rent increases (AGIs) and the proposed requirement to create a maintenance account for capital expenditures.

Concerning applications for above-guideline rent increases, the purpose of the provincial scheme is to allow landlords to pass on to tenants legitimate costs incurred in providing rental housing.

- Item (c), it would be unfair and irrational to disallow landlords from passing on increases in municipal taxes to tenants. This would lead to some units operating at a loss, causing landlords to withdraw those units from the rental market entirely, thereby reducing the supply of rental housing stock and driving up rents for tenants. Municipal taxes are a cost over which landlords have no control, and landlords should therefore be able to pass on such increases to tenants through an AGI, if necessary. Currently, there is a provision by which rents are automatically reduced where:
  - For properties with six or fewer units, the burden is on the landlord to notify the tenant if the tax decreases by 2.5% or more.
  - For properties with seven or more units, the RTA requires the municipality to notify landlords and tenants of the percentage of rent reduction.If landlords are required to pass on decreases to tenants through an automatic rent reduction, they should also be permitted to pass on the increases.

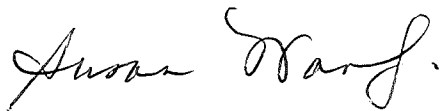
- Item (d), the proposed amendment is redundant and confusing with existing provisions of the RTA. AGI rules in Regulation 516/06 s.18 defines eligible capital expenditures for the purposes of an AGI and excludes any expenses that are considered necessary for ordinary repair and maintenance of the unit/building (RTA s. 126(1), (7) and (8)). Recent RTA amendments pursuant to Bill 124 will tighten rules for above-guideline increases for capital expenditures through a regulation making authority to specify circumstances where otherwise eligible capital expenditures are not eligible. The amendment proposed by Committee would further muddy the waters around what constitutes an eligible capital expenditure, and may discourage investments in properties that improve rental housing stock in Ontario.
- Item (e), the proposal to require landlords to set aside 10% of rent for a reserve fund to pay for capital expenditures is impractical and ignores the realities of being a landlord. This requirement would be onerous for small scale landlords, cumbersome to administer and enforce, and unlikely to improve the state of rental housing. Landlords often operate on thin margins and do not have a 10% monthly surplus. Section 20 of the RTA and municipal housing and maintenance standards prescribes that landlords must maintain their properties in a good state of repair and fit for habitation and comply with health, safety, housing and maintenance standards. Landlords are in the best position to plan for how to meet those requirements and standards, rather than imposing an arbitrary savings rate. It would not serve any purpose to require a landlord with a well-maintained rental unit to set aside 10% of rent for capital expenditures, as this would lead to landlords raising rents by an equivalent amount to cover the reserve.

The proposal raises many questions: How would disbursements from the fund and replenishments be calculated? What forms of financial instruments could the fund take, and what would be the restrictions on how the funds could be invested? How would fluctuations be handled? Who would monitor and enforce the fund, and how could this be done without breaching landlords' privacy rights? The proposal ignores that some properties may have no foreseeable necessary capital expenditures for years while other have significant immediate capital expenditure needs. The landlord is in the best position to plan for and finance those expenditures as he or she sees fit.

In closing, LSHC recommends that City Council NOT adopt item 7 of this report. The proposed changes are not well thought out and would negatively impact residential landlords in Ontario and drive many landlords out of the business, thereby reducing the supply of rental housing and further exacerbating the shortage of rental housing in Toronto and across Ontario. We believe the proposed tightening of the regulations related to above-guideline increase will result in the further loss of rental units being offered by the secondary market for long-term rentals.

Sincerely,

**Landlord's Self-Help Centre**



Susan Wankiewicz  
Clinic Director