

Promoting the Security of Residential Rental Tenancies

Date: November 5, 2019
To: Subcommittee on the Protection of Affordable Rental Housing
From: Executive Director, Housing Secretariat and General Manager, Shelter, Support and Housing Administration
Wards: All

SUMMARY

With residential vacancy rates in the City's primary rental market at unhealthy rates and rents rising faster than wages, Toronto tenants are at a greater risk of being displaced, having to pay increasingly unaffordable rents or being forced to live in poorly maintained homes.

Due to lack of supply in the rental market, many low-income and vulnerable residents struggle to find and keep rental accommodation in Toronto. This includes groups such as people with medium, low and fixed incomes, one income households, single women-led households, visible minorities, persons with special needs, Indigenous people and people who are homeless or lack the resources to be housed. As a result of Toronto's tight housing market and the current legislation that regulates rental housing, there is a public interest in ensuring that residential tenants maintain their tenancies and that their rights are upheld.

This report reviews and makes recommendations concerning the growing public interest in "renovictions", a term that refers to instances where landlords illegitimately evict tenants to undertake renovations of properties and do not provide them with the option to return so that the homes can then be re-rented at a much higher price to a new tenant.

This report also reviews and makes recommendations concerning the illegitimate use of N12 notices under the *Residential Tenancies Act, 2006*, which permits a landlord to evict a tenant if a rental unit is needed for the landlord's own use, that of their family or a purchaser. Specifically cases have been reported where landlords or their families never move into the rental units with such units instead re-rented at much higher rates.

To address these concerns, while protecting tenants and the City's limited supply of affordable housing, the Planning and Housing Committee established a Subcommittee on the Protection of Affordable Rental Housing in May 2019.

This report provides the public with background information in advance of the November 20, 2019 meeting of the Planning and Housing Subcommittee on the Protection of Affordable Rental on the issues of “renovictions” and the illegitimate use of N12 Notices under the *Residential Tenancies Act*, 2006.

This report also operationalizes the Terms of Reference adopted by the Subcommittee at its meeting of July 16, 2019 and expanded by the Planning and Housing Committee on September 17, 2019.

Lastly this report recommends actions for the City to proactively identify issues impacting the security of tenure of existing tenants and report back to the Subcommittee on progress in the first quarter of 2020.

RECOMMENDATIONS

The Executive Director, Housing Secretariat and the General Manager, Shelter, Support and Housing Administration recommend that:

1. The Planning and Housing Committee request the Executive Director, Housing Secretariat and the General Manager, Shelter Support and Housing Administration in consultation with the Chief Planner and Executive Director, City Planning, the Executive Director, Municipal Licensing and Standards, the Chief Building Official and Executive Director, Toronto Building and the City Solicitor to report to the Subcommittee on the Protection of Affordable Rental Housing in the first quarter of 2020 on:
 - a) an approach to coordinate City processes to identify and prevent potential instances of illegitimate evictions;
 - b) potential improvements to City programs, policies and processes to address evictions;
 - c) potential mechanisms and data sources to track and monitor data on N12 and N13 evictions, increases in rents above the provincial rent-increase guidelines, and changes to the short-term rental stock; and
 - d) the role of the City to support tenants with disputed N12 and N13 evictions.
2. The Planning and Housing Committee request the Executive Director, Housing Secretariat and the General Manager, Shelter Support and Housing Administration to establish a 'Protection of Rental Housing Advisory Group' consisting of staff from City divisions, people with lived-experience, tenant advocacy groups, landlords, and legal clinics to provide advice to the Executive Director, Housing Secretariat on affordable rental housing issues that impact tenants.

3. The Planning and Housing Committee request the Executive Director, Housing Secretariat and the General Manager, Shelter, Support and Housing Administration to work with the “Protection of Rental Housing Advisory Group” on the following matters:

- a) the development of public educational materials and awareness campaigns;
- b) the identification of possible changes to the *Residential Tenancies Act, 2006*, to address illegitimate use of N12 and N13 notices; and
- c) the hosting of an affordable rental housing workshop to address the issue of tenant displacement and evictions, including solutions.

FINANCIAL IMPACT

There are no financial implications arising from this report. The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

EQUITY IMPACT STATEMENT

Protecting the City's existing affordable rental housing stock and ensuring that the rental housing stock is well-maintained will increase the opportunity for low-and-moderate-income and vulnerable individuals, as well as those from equity-seeking groups, to access safe, healthy and adequate homes.

Access to good quality, safe, affordable housing is also an important determinant of health, supports the environment and improves the socio-economic status of individuals, families, and communities as a whole.

DECISION HISTORY

At its meeting of September 17, 2019, the Planning and Housing Committee amended the Terms of Reference for the Subcommittee on the Protection of Affordable Rental Housing to expand the mandate for the Subcommittee to support the City of Toronto to better assist and protect tenants to stay in their apartments and protect the affordable housing supply in Toronto.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH8.2>

At its meeting of July 16, 2019, the Subcommittee on the Protection of Affordable Rental Housing adopted official Terms of Reference focused on supporting tenants impacted by evictions through landlords' illegitimate use of N12 and N13 eviction notices under the *Residential Tenancies Act, 2006* as well as their application of above guideline rent increases.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.RH1.2>

At its meeting of May 28, 2019, the Planning and Housing Committee established a Subcommittee on the Protection of Affordable Rental Housing. The primary purpose of the Subcommittee is to determine the impact of N12 and N13 evictions on the supply of

affordable rental housing and to help tenants facing these evictions.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH6.13>

COMMENTS

Background

As outlined in the January 2019, *Toronto Housing Market Analysis: From Insight to Action* report commissioned by the City of Toronto, an unbalanced housing market can have negative effects on tenants, particularly those from vulnerable and marginalized groups. For instance, a "tight" rental housing market with limited options results in greater potential of price increases when units turn over.

Due to lack of supply in the rental market, many low-income and vulnerable residents, such as people with mental health or addiction issues, families experiencing displacement, people with disabilities, and people on fixed incomes are left with little housing choice and are forced to live in some of the City's most poorly maintained properties as these are often the most affordable units.

On May 28, 2019, the Planning and Housing Committee established a Subcommittee on the Protection of Affordable Rental Housing. The Subcommittee was created in response to a growing public concern that renters in Toronto are being displaced from rental accommodation as a result of landlords evicting tenants only to replace them with higher paying tenants. The concerns more specifically relate to N12 and N13 notices under the *Residential Tenancies Act, 2006* being increasingly and illegitimately used as a means to evict tenants.

N12 evictions permit a landlord to evict a tenant if a home is needed for the landlord's own use or that their family. N13 evictions permit a landlord to evict a tenant if the unit will be demolished, repaired or converted to another use. Tenants are entitled to 120 days' notice and right of first refusal to reoccupy once the unit is renovated, and in some cases may be entitled to compensation.

The Terms of Reference for the Subcommittee outlines numerous actions for City staff and the broader housing sector to undertake to gather and analyze available information and to collectively identify systems based approaches to effectively address issues. Some of these actions include:

- an assessment of the impact of N12 and N13 evictions on the supply of affordable housing in Toronto;
- recommendations on how the City of Toronto may better assist and protect tenants to stay in their apartments; and
- recommendations to protect the affordable housing supply in Toronto including suggested changes to provincial policies and legislation.

The Challenge

Through various public and stakeholder consultation sessions hosted by City of Toronto staff over the past year with respect to housing-related initiatives and policies (including the RentSafeTO program, Inclusionary Zoning and the HousingTO 2020-2030 Action Plan), participants raised concerns about tenants being displaced and the limited availability of alternate affordable housing options. Participants also raised concerns over the poor property conditions that a growing number of households in the city are living in.

The term "renoviction" was frequently used to describe instances of tenants being evicted with landlords claiming to be undertaking repairs, only to offer the unit to someone who would pay higher rent. Or, the landlords actually undertaking repairs and not offering tenants the right to return to the units at the same rent and then re-leasing to a new tenant at much higher rents. In these instances residential landlords have been able to achieve "renovictions" through the use of an N13 notice under the *Residential Tenancies Act, 2006*, which permits a landlord to end a tenancy if the landlord wishes to: (a) demolish a rental unit; (b) repair it; or (c) convert it to non-residential use.

Participants also felt that there was an increase in landlords issuing N12s under the *Residential Tenancies Act, 2006* which provides for the termination of a tenancy where the landlord or a family member requires the premises for their own use. It was reported that in some cases, the landlord or their family members moved in temporarily and then the unit was re-rented at a much higher rent. Alternatively, the landlord or their family members never moved in the unit but rather it was rented to a new tenant at a higher rent.

In addition to increasing housing instability and lack of affordable housing options, residents from equity seeking and vulnerable groups reported facing additional barriers to both accessing and maintaining housing. These include discrimination from landlords, isolation and stigmatization.

Limited data on outcomes of eviction notices and hearings are made publicly available by the Landlord Tenant Board, limiting the City's ability to analyze the impact of evictions on tenants and affordable housing supply. Council has previously requested the Province to make greater information available through Open Data related to Above Guideline Increases (AGIs). A clearer understanding of the scale and scope of AGI applications as well as N12 and N13 eviction notices in Toronto would allow the City to better develop programs and policies to meet the needs of residents.

Current City Policies, Programs and Initiatives

Protecting Existing Tenants and the Affordable Housing Stock

The City currently has a range of policies, programs and initiatives that support the security of tenure of residential tenants and seek to mitigate the loss of affordable rental housing. Some of these include:

a) **Rental Housing Demolitions and Conversion**

- The City's Rental Demolition and Conversion By-law regulates the demolition and conversion of existing rental housing; and
- The City's rental demolition and replacement Official Plan policy requires all affordable and mid-range housing lost to redevelopment to be replaced by units with similar rents secured for at least 10 years.

b) **Secondary Suites and Dwelling Room Protection**

The City has developed Official Plan policies to address the loss of dwelling rooms including a requirement to replace the same amount of dwelling room gross floor area in new developments as rental housing and to provide assistance to displaced tenants.

c) **Tenant Relocation Support Services**

Initiated as a result of a planning application, a protocol has been established to activate services for tenants facing evictions due to demolition, renovation or development. Components of the service include securing funds for relocation assistance, intensive housing help outreach, and access to City resources.

d) **Rooming House Emergency Relocation Program**

Provides emergency response and eviction prevention services to tenants involved in sudden rooming house emergencies - i.e. fire, sudden closure.

e) **RentSafeTO Program**

The RentSafeTO program works to strengthen enforcement of City bylaws, enhance tenant engagement and access to information, promote preventative maintenance in apartment buildings to prevent the deterioration of standards, and recover the cost of ensuring compliance by landlords through user fees.

f) **Eviction Prevention in Communities (EPIC) Program**

The EPIC Program provides direct intervention with landlords/housing providers and people at risk of homelessness to prevent evictions.

g) **Toronto Rent Bank**

Provides interest-free loans for rental arrears or first and last month rent to assist households in maintaining their existing homes or securing new accommodation.

h) **Financial Trusteeship Program**

Provides money management assistance to tenants to ensure rent is paid on time in an effort to avoid eviction.

i) **Tenant Defence Fund**

Supports tenants disputing above guideline increases (AGI) in rent, demolitions or conversions by providing grant funding or paralegal services, tenant outreach and education and help in organizing tenant groups.

j) **The Tenant Hotline**

Funded by the City and operated by the Federation of Metro Tenants Association (FMTA) provides information accessible to all tenants in private rental housing.

To support the Planning and Housing Committee and the Subcommittee on the Protection of Affordable Rental Housing City staff will review these policies, programs and initiatives to identify opportunities to improve the City's efforts to address the loss of affordable rental units, support for tenants experiencing evictions and to develop an early warning system to identify and prevent potential illegitimate evictions.

New Rental Housing Supply

The City also has a range of broader policies, programs and initiatives to address housing needs in Toronto. These include:

- The Housing Opportunities Toronto 2010- 2020 Plan
- The Official Plan's Housing policies
- The Toronto Seniors Strategy 2.0
- The Poverty Reduction Strategy Action Plan
- The Housing Now initiative
- The Open Door Affordable Rental Housing Program

The City is also reviewing options to increase housing options and planning permissions in areas of Toronto designated as Neighbourhoods in Toronto's Official Plan and is developing Official Plan policies to provide for new affordable housing through Inclusionary Zoning.

Enhanced City Role Going Forward

While the enforcement of the *Residential Tenancies Act, 2006*, falls under provincial jurisdiction and is enforced through the Landlord and Tenant Board ("LTB"), various City divisions undertake functions that impact residential tenancies and intersect with the LTB. For example, building permits and/or planning approvals issued by the City are often required at the Landlord Tenant Board to support termination of a tenancy.

The preservation of affordable rental housing and the protection of tenants' rights are a priority for the City. Led by the Housing Secretariat, an interdivisional working group will be established with staff from Shelter, Support and Housing Administration, Municipal Licensing and Standards, City Planning, City Legal and Toronto Building.

The working group will improve coordination and communication among City divisions in the following areas:

- Identification of illegitimate evictions;
- Collection, analysis and data sharing on tenant displacement and affordable rental loss; and
- Identification of measures to enhance supports to tenants experiencing unlawful evictions.

The Housing Secretariat will also consult with people with lived experience, legal clinics, tenant advocacy groups and landlords to inform:

- the City's response to illegitimate tenant evictions;
- the development of materials to educate tenants on their rights and inform landlords of their responsibilities;
- the City's response to eviction prevention supports;
- potential amendments to the *Residential Tenancies Act, 2006* and changes at the LTB to address illegitimate evictions; and
- the hosting of an affordable housing workshop to address the issues of security of tenure and affordable rental housing.

NEXT STEPS

This report has been prepared to provide information to the public and make recommendations to the Subcommittee on the Protection of Affordable Rental Housing in advance of their meeting on November 20th, 2019.

In particular the report makes recommendations to improve tenant security of tenure and protect affordable rental housing through improving City processes, establishing a "Protection of Rental Housing Advisory Group" and opportunities to engage the public on the issues of tenant security of tenure and the protection of existing rental housing.

In the coming weeks and months City staff will be following up on these matters and will provide a progress report to the Subcommittee in early 2020.

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