



## REPORT FOR ACTION

### **City of Toronto Submission on Bill 184 - Protecting Tenants and Strengthening Community Housing Act, 2020**

**Date:** June 26, 2020

**To:** Planning and Housing Committee

**From:** Abigail Bond, Executive Director, Housing Secretariat

**Wards:** All

#### **SUMMARY**

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On March 12, 2020 the provincial government introduced Bill 184 Protecting Tenants and Strengthening Community Housing Act, 2020. This Bill amends the Residential Tenancies Act, 2006, Building Code Act, 1992, Housing Services Act, 2011 and enacts the Ontario Mortgage and Housing Corporation Repeal Act, 2020. The Bill passed Second Reading on May 27, 2020 and was referred to the Standing Committee on Social Policy. On June 16, 2020 the notice of hearings was posted with a deadline for submissions June 26, 2020.

This reports seeks approval for the attached submission provided to the Standing Committee on Social Policy on June 26, 2020. The submission was informed by previous Council positions.

#### **RECOMMENDATIONS**

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The Executive Director, Housing Secretariat, recommends that:

1. City Council adopt the positions on Bill 184, Protecting Tenants and Strengthening Community Housing Act, 2020, as outlined in Appendix A, and direct the Executive Director of the Housing Secretariat, formally submit Appendix A, to the Ontario Ministry of Municipal Affairs and Housing.

## **FINANCIAL IMPACT**

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There are no financial implications resulting from the recommendations included within this report in current or future budget years.

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

## **EQUITY IMPACT STATEMENT**

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The HousingTO 2020-2030 Action Plan envisions a city in which all residents have equal opportunity to develop to their full potential. The HousingTO 2020-2030 Action Plan is also centred on a human rights based approach to housing. This human rights based approach recognizes that housing is essential to the inherent dignity and well-being of a person and to building inclusive, healthy, sustainable and liveable communities. One of the guiding principles to a human rights based approach outlined in the updated Toronto Housing Charter states that "All residents have a right to a safe, secure, affordable home in which they can live in peace and dignity and realize their full potential". The City recognizes that the changes proposed in Bill 184 have the potential to impact peoples' access to adequate, safe, secure and affordable housing and as such the recommendations in the City's submission reflect the need to balance affordability and tenant access to the justice system.

## **DECISION HISTORY**

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Toronto City Council has a long history of making requests to improve the Residential Tenancies Act, 2006 (RTA) to improve affordability; ensure fair access to the justice system; address new problematic trends such as "renovictions"; call for increased data collection and dissemination for transparency; and more. Additionally the City has recently adopted positions on changes to the Building Code Act, 1992 and has numerous positions on record related to the Housing Services Act, 2011. The following are key reports that call for reforms from 2013 to present.

### **Residential Tenancies Act, 2006**

Over the years there have been several Council positions adopted related to rent control, shelter allowances, legal aid, renovictions, Above Guideline Increases and the Landlord and Tenant Board (LTB) process.

On December 10, 2019 the Planning and Housing Committee adopted a report that called for the creation of a Protection of Affordable Rental Housing Advisory to among other actions, to develop positions related to the RTA to address illegitimate N12 and N13 notices. Additionally the recommendations included exploring the potential to explore criminal charges for fraudulent activities related to the RTA.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH11.11>

On November 26 and 27, 2019 Council adopted a motion calling for the province to reintroduce rent control. A rent control motion was also made in 2017.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.MM12.33>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.MM27.9>

On May 14 and 15, 2019 City Council adopted a motion calling on the provincial government to reinstate support to Legal Aid Ontario so that residents with a low-income had access to the support they need in tenancy matters.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.MM7.14>

In response to an increase in renovictions, Council on March 26 and 27, 2018 adopted a motion calling on the province to strengthen the RTA to reinstate tenancies where tenants that have been "renovicted" can return to their homes when the renovation is complete. At the same Council meeting recommendations were adopted calling on the province to track data related to Above Guideline Increases (AGI) and evaluate the types of charges that can be included in AGIs.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.MM38.15>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX32.20>

In May 2017 City Council passed several recommendations to address rental housing affordability in the City. The recommendations called for amendments to the RTA for enhanced rent control, increased OW/ODSP shelter allowances, increased access to legal clinics, increased awareness of tenant rights and a call to freeze rents on buildings where property managers repeatedly were not complying with work orders.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX25.11>

### **Housing Services Act, 2011**

As part of the HousingTO 2020-2030 Action Plan recommendations in December 2019 and the Tenants First report in June 2016 City Council called for equal rent scales for Ontario Works/Ontario Disability Support Program recipients regardless of what type of housing they reside in.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH11.5>

<http://app.toronto.ca/tmmis/decisionBodyProfile.do?function=doPrepare&meetingId=10992#Meeting-2016.EX16>

### **Building Code Act, 1992**

On January 29, 2020 Toronto City Council adopted a report outlining the City's position on proposed changes to the Building Code Act, **1992**. The full report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH12.1>

## COMMENTS

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### Impact of COVID-19 on Submission

On March 12, 2020 the Province introduced Bill 184 Protecting Tenants and Strengthening Community Housing Act, 2020. Five days later it declared a State of Emergency in response to COVID-19. With physical distancing requirements being implemented both the Legislature at Queen's Park and Toronto City Council limited non-emergency business. This resulted in uncertainty around when Bill 184 would receive Second Reading as well as the City's ability to bring positions on the Bill to Council.

On May 26th, 2020 Bill 184 was introduced for Second Reading. It passed Second Reading on May 27th and was referred to the Standing Committee on Social Policy. On June 16th, 2020, the government moved Motion 80 regarding Standing Committee hearings on Bill 184, with a deadline for submissions of June 26th, 2020. Unfortunately with this timing and the impact of COVID-19 on City of Toronto Council business City staff were unable to bring forward a submission for Council approval before the deadline. Instead, City staff prepared the attached submission based on previous Council positions and input from stakeholders. The submission clearly differentiates what recommendations reflect clear Council position versus City staff recommendations.

In addition to the impact on timing, COVID-19 has affected the consideration of the Bill itself. The Bill was first introduced before the COVID-19 pandemic hit the Province and the economy and housing landscape changed. In response the Province introduced an eviction moratorium as many Ontarians are out of work. More people are precariously housed and the full impact of the pandemic on housing has yet to be felt. Second reading took place during the pandemic and there were no amendments to reflect to the current state of housing as impacted by COVID-19. The City submission references this lack of acknowledgement and missed opportunities due to the timing of debating the Bill during the pandemic. The submission also acknowledges improvements made and makes recommendations for improvement. Appendix A provides the full City submission on Bill 184.

### Stakeholder Engagement

In addition to existing Council positions, the Residential Tenancies Act, 2006 (RTA) sections of the City submission were also informed by input from people with lived experience, landlords, legal clinics and tenant advocate groups. This was possible through the creation of a Protection of Rental Housing Advisory Group as directed by Sub-Committee on the Protection of Affordable Rental Housing via the Planning and Housing Committee in December 2019. Since February 2020 the Advisory Group has been working on a number of issues including identifying potential changes to the RTA. Unfortunately COVID-19 has delayed any reporting back to the Sub-Committee in 2020. Due to the tight timelines, the Advisory Group has not seen or endorsed the attached submission, but their input was considered.

## **Overview of Submission**

Bill 184 Protecting Tenants and Strengthening Community Housing Act, 2020 seeks to amend the Building Code Act, 1992, the Housing Services Act, 2011 (HSA) and the Residential Tenancies Act, 2006 (RTA) while also introducing the Ontario Mortgage and Housing Corporation Repeal Act, 2020. The majority of the City submission focuses on the proposed changes to the RTA since staff in the Shelter Support & Housing Administration (SSHA) division have been in regular contact with the Province regarding the HSA and the City's Council approved position on the Building Code amendments were shared with the Province earlier in 2020. It was determined that there are no impacts of the Ontario Mortgage and Housing Corporation Repeal Act, 2020 on the City.

## **Highlights of City Recommendations on RTA**

Appendix B provides a summary of all of the recommendations included in the City's submission on Bill 184. Specific to the RTA proposed amendments the City submission seeks to find a balance between protecting affordable housing and tenants' rights as well as the interests of landlords. To strike this delicate balance the City is proposed recommendations in the following areas:

- Protection of affordable rental housing;
- Access to justice for tenants and landlords;
- Eviction prevention and compensation;
- Enforcement and oversight;
- Data collection and dissemination;
- Landlord & Tenant Board (LTB) administrative improvements.

## **Protection of Affordable Rental Housing**

A key consideration in the City's submission was how the RTA amendments addressed the protection of existing rental housing. This was a focus area in the City's HousingTO 2020-2030 Action Plan since many affordable homes are being lost at turnover, due to conversion and demolition and increasingly due to illegitimate activity. To address this the City calls on the Province to:

- Reintroduce Rent Control
- Improve Oversight and Enforcement of Above Guideline Increases
- Raise Ontario Works (OW) and the Ontario Disability Support Program (ODSP) Shelter Benefits

## **Access to Justice for Tenants and Landlords**

Many of the proposed amendments to the RTA speak to improving the efficiency of the LTB processes. While many of the amendments on the surface seem like good practice to reduce red tape, duplication or potential delays in process, they can also put tenants at a disadvantage. Based on numerous Council positions calling to enhance legal aid and improve tenant awareness of their rights, the City calls on the Province to:

- Restore and enhance provincial investments in legal aid
- Amend Section 82 (2) related to advance notice to be best practice, not a requirement
- Strike Section 135.1 (1) – Rent Increase Deemed Not Void
- Reconsider use of LTB to settle additional tenancy matters
- Develop a simple, accessible fact sheet on landlord and tenant rights and responsibilities to be mandatory in all communications with landlords and tenants

### **Eviction Prevention and Tenant Compensation**

Bill 184 introduces amendments that would see tenants receive increased compensation for illegitimate activity or for no-fault evictions. This is an improvement, but in the Toronto housing market some of the compensation needs to go farther to ensure that tenants are not left at a disadvantage. Additionally resources need to be put in place to enforce these important new changes. One area of concern however due to the City's focus on eviction prevention is the proposed change that would allow mediated agreements that were breached to allow a landlord to pursue an "ex parte eviction order". With the anticipated number of rental arrears being accumulated during COVID-19 this could result in many people being evicted more quickly. The City proposes that the Province:

- Remove ability to pursue "ex parte eviction orders" for breached mediated agreements
- Provide at least at least three months' rent for a comparable home as compensation for tenants in no-fault evictions
- Accompany the extended 24 month period to seek remedies for right of first with enforcement and investigative support
- Strengthen Section 53 of the Act so that tenants able to exercise their right of first refusal
- Institute a rent freeze in rental buildings for non-compliance with work orders, beyond work orders related to elevators

### **Enforcement and Illegitimate Activity**

To ensure that illegitimate activity is addressed and that new penalties are applied, the City propose that the Province:

- Regulate N11s and buy-out agreements
- Strengthen Section 71.1 by also requiring additional documentation for N13s and invest in enforcement
- Accompany increased in penalties for violating the RTA with resources for enforcement
- Increase the resources of the Rental Housing Enforcement Unit (RHEU) to better serve tenants and landlords

## **Data Collection and Dissemination**

Good policy and programs need to be informed by good data. Currently all orders of government are working together to build new affordable housing, preserve existing housing and provide income and housing stability supports. Much of this work is taking place in the absence of good data collection and data sharing across governments. The City recommends that the Province:

- Establish a robust provincial rental registry that tracks building ownership, asking rental rates, AGIs and their expiries and LTB filings and their outcomes.

## **Landlord and Tenant Board Administrative Improvements**

The Landlord and Tenant Board in its current form is not working well for landlords or tenants. It is not adequately resourced to produce quick results. Long waits at the LTB on hearing days and lack of childcare make it inaccessible for some. For many tenants the documentation provided is confusing and not easy to comprehend sometimes resulting in misunderstanding its intent. The City proposes that the Province:

- Increase staffing levels at the LTB to address the backlog and to better support landlords and tenants and collect and disseminate data and information
- Improve LTB scheduling to mitigate long wait times
- Simplify LTB notices with plain language so they are easily understood and ensure all forms include a tracking number that is linked to a public registry

## **City Recommendations on HSA**

Staff from Shelter, Support and Housing Administration division have been consulted by the Province as the HSA amendments were being developed. City staff, along with the Association of Municipalities of Ontario (AMO) and other Service Managers do not oppose the HSA amendments. Instead all are waiting for an opportunity to shape the regulations and are calling for them to be developed with principles of recognizing municipal autonomy, local flexibility in service delivery and the need to be cost neutral to municipalities.

## **City Recommendations on Building Code Act**

If adopted, the proposed Act (Bill 184) would amend the Building Code Act, 1992 to establish an administrative authority with delegated authority for the administration of specific provisions of the Building Code Act, 1992. In response to the 2019 provincial consultation on potential changes to provincial building code service delivery, Toronto City Council considered issues related to a potential administrative authority and called on the Province to:

- Add the Chief Building Official of the City of Toronto as an ex-officio, voting member on the proposed administrative authority's Board of Directors
- Ensure the Ministry of Municipal Affairs and Housing conducts further consultations directly with the City of Toronto on its proposals to change how Ontario Building Code services are delivered in Ontario.

- Consider aligning any further Ontario Building Code Act changes with the property maintenance standards and requirements in the Residential Tenancies Act either through legislation, regulation or engagement with tenants and landlords.

## **CONTACT**

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## **SIGNATURE**

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## **ATTACHMENTS**

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Appendix A - City of Toronto Submission on Bill 184 Protecting Tenants and Strengthening Community Housing Act, 2020

Appendix B - Summary of City of Toronto Recommendations on Bill 184 Protecting Tenants and Strengthening Community Housing Act, 2020