

Actions to Address Renovictions in Toronto

Date: May 31, 2021

To: Subcommittee on the Protection of Affordable Rental Housing

From: Executive Director, Housing Secretariat

Wards: All

SUMMARY

A key strategic action identified in the HousingTO 2020-2030 Action Plan ("HousingTO Plan") is to prevent homelessness and improve pathways to housing stability for residents across the city. This strategic action reflects community concerns about an increasing trend of illegitimate evictions. Renovictions in particular, where a landlord issues a N13 eviction notice to a tenant under the guise of undertaking renovations but does not follow the requirements of the *Residential Tenancies Act*, including refusing to allow the tenant to return post-renovation, have been on the rise resulting in the displacement of tenants and the permanent loss of affordable rental housing.

At the September 24, 2020 meeting of the Subcommittee on the Protection of Affordable Rental Housing, the Subcommittee requested staff to report back on the progress made on steps to mitigate illegitimate evictions. On May 20, 2021, the Planning and Housing Committee directed staff to evaluate the New Westminster, BC by-law addressing renovictions and outline how it could be adapted for Toronto.

This report responds to the Subcommittee and Committee's requests and provides a preliminary analysis of the New Westminster, BC by-law and its transferability to a Toronto and Ontario context. Additional jurisdictional scans for creative policy approaches will continue and considered for possible application in Toronto, and a proposed renovictions policy for Toronto will be reported to the Committee by the end of 2021.

Over the upcoming months, staff will work with the Tenant Advisory Committee and other stakeholders to develop a future City of Toronto renovictions policy and a set of accompanying procedures/actions for implementation. This work would include determining municipal authority and permissions, as well as identifying resource implications and tenant impacts. Elements of a future policy to be considered includes tenant support and capacity building; assessing and leveraging city authorities to deter renovictions; landlord eligibility for city programs/incentives that encourage investment in existing purpose-built rental housing; the establishment of a housing-at-risk working

table; proactive data-driven responses; intergovernmental advocacy and collaboration; housing sector collaboration; and ongoing policy/program evaluation and improvement.

In addition to the above, this report summarizes work completed to date to address illegitimate evictions including setting up an interdivisional staff working group; the establishment of the new Tenant Advisory Committee; developing a new online portal for tenants and an evictions toolkit; expansion of the City's Tenant Defence Fund; and increased funding to Federation of Metro Tenants' Associations (FMTA) to support work related to illegitimate evictions. Additional work is currently underway across City divisions to develop new or enhance existing policies and programs that assist renters.

The report also proposes an interim process to leverage the work of the Outreach and Organizing Program which would identify potential illegitimate renovations for City staff. An interdivisional staff table would then be convened regularly to review cases where there are suspected illegitimate evictions and to identify any actions that the City could take within its jurisdiction, to support tenant and/or City action on illegitimate evictions.

RECOMMENDATIONS

The Executive Director, Housing Secretariat recommends that:

1. The Subcommittee on the Protection of Affordable Rental Housing direct staff to report to the December meeting of the Subcommittee with a proposed Renovictions Policy and accompanying procedures for consideration, having regard for best practices from other jurisdictions as applicable.

FINANCIAL IMPACT

There are no financial implications associated with this report.

EQUITY IMPACT STATEMENT

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 approach recognizes that housing is essential to the inherent dignity and well-being of a person and to building healthy, inclusive, sustainable and complete communities.

Addressing illegitimate evictions is a key action to prevent homelessness, improve housing stability for residents, and protect the existing stock of permanent affordable housing across the city. It also helps lower-income and vulnerable individuals and families, 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 and improves the social and economic status of an individual. Good quality, affordable housing is also a cornerstone of vibrant, healthy neighbourhoods and supports the environmental and economic health of the city, region and country as a whole.

DECISION HISTORY

Among other directions, on November 20, 2019 the Subcommittee on the Protection of Affordable Rental Housing directed staff to explore options to address illegitimate evictions. Considerations included data collection, investigation measures and provincial advocacy.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.RH2.1>

At the September 24, 2020 meeting of the Subcommittee on the Protection of Affordable Rental Housing a report back was requested on progress made on steps to mitigate illegitimate evictions.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.RH3.1>

On November 23, 2020, the Subcommittee on the Protection of Affordable Rental Housing adopted the report, *RH4.1 Tenant Support Grant Program Updates*. This report recommended expanding the scope of the Tenant Support Grant Program to include N13 notices as an eligible grant application type and increasing the Tenant Defence Fund 2021 budget by \$100,000.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.RH4.1>

On November 23, 2020 staff provided an update on work to date and proposed the creation of a new Tenant Advisory Committee. The new committee would work with staff to co-develop work plans to address issues including the consideration of a renovations policy. Staff were also directed to engage a consultant to assist with data collection on evictions.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.RH4.2>

On May 20, 2021 the Planning and Housing Committee directed staff to evaluate the New Westminster, BC by-law addressing renovations and how it could be adapted for Toronto. This report responds directly to this directive.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH23.20>

COMMENTS

Background

The HousingTO Action Plan 2020-2030 identifies homelessness prevention and enhancing housing stability as a key priority for the City over the next nine years. This priority was informed by extensive public consultations and concerns related to an increasing trend of illegitimate evictions. The lack of purpose-built affordable rental Actions to Address Renovations in Toronto

housing over several decades and a growing demand which has outstripped current supply, have been key drivers of a challenging housing market for renters, creating the context for illegitimate evictions across the city.

Renovictions in particular have been on the rise resulting in the displacement of tenants and the permanent loss of affordable rental units. "Renoviction" refers to "when a landlord issues a tenant a N13 eviction notice under the guise of undertaking renovations but does not follow the requirements of the *Residential Tenancies Act*". In many cases, these renovations are not actually carried out. Or, in cases where they are, tenants may not need to move out and/or are not given the right to return to their units post-renovation. These units are then rented to new tenants at much higher rents.

Following direction from the Sub-Committee on the Protection of Affordable Rental Housing in late 2019, City staff began working on a number of actions related to supporting tenants and preventing illegal evictions – including helping tenants understand their legal rights. The City's commitment to address illegitimate evictions was again reinforced in the HousingTO Implementation Plan update, adopted by City Council in September 2020, and which outlined a number of actions planned or underway to improve the security of tenure for tenants in private market rental housing.

Considerations for a City of Toronto Renovictions Policy

At the May 20, 2021 the Planning and Housing Committee staff were directed to evaluate the New Westminster, BC by-law addressing renovictions and how this by-law could be adapted for the City of Toronto. Before this direction, staff and stakeholders had begun preliminary discussions on possible elements of a renovictions policy for Toronto. This is a priority identified in the newly formed Tenant Advisory Committee's 2021-2022 work plan. The aim is to bring back a proposed renovictions policy for consideration by Committee in December 2021.

This section of the report includes preliminary analysis of the New Westminster, BC by-law and its transferability to a Toronto and Ontario context. Additionally, it outlines elements that staff and stakeholders have identified as key considerations for a Toronto renovictions policy.

Analysis of New Westminster, BC Renovictions By-law

Staff have been asked to consider the implementation of a similar Part 6 of the Corporation of the City of New Westminster Bylaw No. 6926, being a Business Regulations and Licencing (Rental Units) Bylaw (the "Renoviction Bylaw") in Toronto. The British Columbia Court of Appeal recently released its decision with respect to an application for judicial review of the Renoviction Bylaw. The application alleged that the Renoviction Bylaw was outside the scope of the City of New Westminster's powers because it contravened the province's intention to regulate residential tenancies. The British Columbia Court of Appeal found that the City of New Westminster had the authority to enact the Renoviction Bylaw. It is not yet known if there will be an appeal to the Supreme Court of Canada.

In British Columbia, municipal powers are governed by the *Local Government Act* and the *Community Charter*, which contain similar provisions to the City of Toronto Act, 2006. However, the *Community Charter* contains specific provisions that authorize councils to make by-laws for the protection of persons and property in relation to rental units and residential property.

Both the British Columbia *Residential Tenancy Act* and the Ontario *Residential Tenancies Act* set out the procedure to terminate a tenancy where the landlord intends to repair or renovate the unit. While the process appears similar, there are key differences in the laws.

Housing Secretariat staff will continue to consult with the City Solicitor on the similarities and differences between the legislative regimes as it develops policies and programs to prevent renovations in the City of Toronto. A detailed review of this by-law, and options for a similar by-law in Toronto, will be presented to the Planning and Housing Committee for consideration in December 2021.

Proposed Elements of a Toronto Renovictions Policy

Over the coming months staff will work with the Tenant Advisory Committee and other stakeholders to develop a City of Toronto Renovictions policy for consideration by Council later this year. The following key considerations among others will be analyzed as the policy is developed in order to determine municipal authority, resource implications and tenant impacts:

1) Tenant Support and Capacity Building

A major consideration in developing a response to renovations is to ensure that tenants are aware of their rights and able to exercise those rights. The ability to challenge an eviction either with neighbours or through the support of a tenant organization or legal clinic is also integral. Shelter, Support and Housing Administration is recommending implementation of a Toronto Tenant Support Program by modernizing the Tenant Defence Fund and expanding the program scope and flexibility to allow the City to adapt to emerging issues as they arise.

2) Assessing and Leveraging City Authorities to Deter Renovictions

Tenancy issues fall under provincial jurisdiction and are governed by the *Residential Tenancies Act*. That said, the City has policies and processes that are specific to a landlord's building obligations, such as the Municipal Code Chapter 354, Apartment Buildings, Municipal Code Chapter 667, Residential Rental Property Demolition and Conversion Control, and Municipal Code Chapter 629, Property Standards. Cities in British Columbia have used their planning processes and business licensing regimes to address renovations. A Toronto policy could examine the feasibility of using permit/application, licensing and/or other enforcement tools. These considerations would need to be assessed against existing authorities.

3) Eligibility for City Incentives and Programs

Toronto has many programs that support the provision and protection of purpose-built market and affordable rental housing. This includes the Housing Now Initiative, the Open Door Program, the Tower Renewal Program and various other small scale Actions to Address Renovictions in Toronto

renovation programs. Housing Secretariat and Social Development, Finance and Administration staff will review existing program rules to determine whether additional requirements or provisions are needed to prevent landlords receiving incentives from engaging in renovictions, and to ensure compliance with such provisions.

4) Establish a Housing-at-Risk Working Table

A future renoviction policy will require a dedicated interdivisional table to support successful implementation. Clear roles, responsibilities and resources will need to be identified prior to implementation of any policy.

5) Proactive Data Driven Response

Data is key to forecasting potential displacements such as renovictions, and ensuring tenants know their rights before they are faced with an eviction. Several U.S. cities use data to determine where targeted tenant outreach may be needed. Staff will consider how a similar approach can be adopted in Toronto to better support renters.

6) Intergovernmental Advocacy and Collaboration

Given that evictions fall under provincial jurisdiction, any City policy on renovictions will need to include provincial considerations. Advocacy will be needed to either seek additional permissions at the City level to address renovictions or for the province to consider amendments to the *Residential Tenancies Act* and how it is enforced by the Landlord Tenant Board.

7) Housing Sector Collaboration

The development of a renovictions policy and its implementation will need to consider its potential impacts of the broader housing sector. Considerations include how to communicate information on renovictions; the role of non-profit organizations supporting tenants, data sharing and more.

8) Policy Evaluation

A future renovictions policy will need to be evaluated on an ongoing basis post-implementation to ensure that its desired outcomes are being achieved. Evaluation criteria will include but not be limited to impacts on both tenants and landlords, and the housing market in Toronto.

Work Completed To-Date

In early 2020, staff established an interdivisional working group to address illegitimate evictions which included representation from the Housing Secretariat, Shelter Support and Housing Administration, Municipal Licensing and Standards, Toronto Building, City Planning, Social Development Finance and Administration and the Senior Services and Long-Term Care divisions. An Advisory Group on the Protection of Affordable Rental Housing comprised of tenants, advocates and legal clinics was also formed to assist with the work.

The interdivisional staff working group and the Advisory Group identified key issues, gaps and opportunities to address renovictions. Core elements to addressing illegitimate evictions included informing tenants of their rights; helping tenants exercise their rights; advocacy to the Province to amend the Residential Tenancies Act related to Actions to Address Renovictions in Toronto

evictions; and identify data gaps and the City's role in addressing them. Shortly after the interdivisional table was established, many staff resources were reallocated to respond to the COVID-19 pandemic. However, many pieces of work continued including developing tenant communications, enhancing tenant programs and provincial advocacy related to gaps in the *Residential Tenancies Act*.

Over 2020 and early 2021 the following key pieces of work were completed to assist tenants dealing with renovictions and other illegitimate evictions:

- Creation of a tenant portal on the City of Toronto's website (www.toronto.ca/renterhelp). The site centralizes information for tenants and provide new content on tenant rights and responsibilities.
- Tenant Defence Fund eligibility criteria was expanded to allow tenant groups to apply for a Tenant Support Grant to dispute an N13 application at the Landlord and Tenant Board. Funding for the Tenant Defence Fund - both the Tenant Support Grant Program and Outreach and Organizing Program - was also enhanced through the 2021 budget process to complement the expanded eligibility criteria.
- The City made a submission on the provincial Bill 184, *Protecting Tenants and Strengthening Community Housing Act, 2020*. The submission advocated for changes in compensation for tenants, additional documentation requirements to support N13 applications and enhanced measures for tenants to exercise their right to return following a renovation.
- In June 2021 an evictions tool kit was finalized that provides guidance to tenants when faced with an eviction and includes template letters for tenants to use to exercise their right to return.

Additional work is underway which will support efforts to address renovictions. Toronto Building is in the process of developing an assessment tool that will guide staff in determining work which may legitimately result in the need for the tenant to vacate a property either temporarily or permanently. This will be used to develop educational materials to advise landlords and tenants of their rights and responsibilities under provincial legislation. Work is also underway to build a framework for collecting and managing evictions data that will feed into a larger HousingTO 2020-2030 Action Plan data strategy.

Proposed Interim Renovictions Protocol

In November 2020, the Subcommittee on the Protection of Affordable Rental Housing adopted Item [RH 4.1](#), which included expanding the scope of the Tenant Defence Fund (TDF) to include N13 notices as an eligible grant application type. RH4.1 also increased the 2021 TDF budget by \$100,000 to support tenant groups to dispute N13s. This enhancement was split between the Tenant Support Grant Program, to fund legal and professional services to tenant groups, and the Outreach and Organizing Program, to identify and outreach to affected buildings and provide tenant groups with information on their rights and support to dispute the N13s.

As an interim strategy, staff will leverage the work of the Outreach and Organizing Program to provide information on potential renovictions to the City. As potential cases are flagged to the Housing Secretariat, an interdivisional response table will meet to review the data and potential City actions. While terms of reference for this table are still being formalized, actions to be taken could include determining whether landlords have applied for the appropriate permits and approvals; establishing whether the City's rental demolition and conversion by-law applies; directing tenants to resources on their rights, and connecting with them with tenant supports as necessary, etc. The learnings from this table will be used to develop an appropriate renovation strategy, and associated resourcing, for Toronto.

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