



STAFF REPORT INFORMATION ONLY

Multi-Residential Apartment Building Audit Program

Date:	January 18, 2010
To:	Executive Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2010\Cluster B\MLS\Ec10005

SUMMARY

This report provides an overview of the Multi-residential Apartment Building (“MRAB”) Audit Program that was launched on December 1, 2008, including an account of its key achievements, its challenges and issues, and enhancements conducted along the way. It also addresses the direction from the Licensing and Standards Committee with respect to the Ward 17 pilot project at Symington Place and Pelham Park Gardens.

Municipal Licensing and Standards will expand the program in 2010 by auditing at least 200 buildings. This increase will come on top of the ongoing follow-up on outstanding work and monitoring of long term rehabilitation at many of the 187 buildings audited in 2009. Despite this increase in audit activity, the team will only be increased through the redeployment of two officers. Much of the additional work will therefore be absorbed by achieving greater efficiencies through operational enhancements implemented on the basis of learning gained in the first year of the program.

Municipal Licensing and Standards will also be introducing a number of program enhancements, on the one hand making it easier for tenants to have property standards and related issues addressed more effectively and efficiently, and on the other providing landlords with more specific and timely information to help them identify, address, and get resolution to issues more expeditiously.

This report was prepared in consultation with Shelter Support and Housing Administration, Toronto Public Health, Toronto Fire Services, and Legal Services. Many of the program enhancements were developed after meeting with both landlord and tenant groups in a variety of forums.

Financial Impact

There are no financial implications arising from the recommendations of this report beyond those in the current budget.

DECISION HISTORY

At its November 10, 2008 meeting, the Executive Committee adopted the recommendations of the Executive Director, Municipal Licensing and Standards, to report back after one-year of full implementation of the MRAB Audit Program, and additionally directed staff to undertake other related initiatives as part of the building audit program (see item EX26.2 at <http://www.toronto.ca/legdocs/mmis/2008/ex/decisions/2008-11-10-ex26-dd.pdf>).

At its April 11, 2008 meeting the Licensing and Standards Committee directed the Executive Director, Municipal Licensing and Standards, to continue the pilot project at Symington Place and Pelham Park Gardens and to more generally review the Division's enforcement protocol with respect to TCHC buildings (see item LS12.1 at <http://www.toronto.ca/legdocs/mmis/2008/ls/decisions/2008-04-11-ls12-dd.pdf>).

ISSUE BACKGROUND

Prior to amalgamation, the former municipalities had conducted some form of building audit program. Although these programs had different approaches and met with varying levels of success, they were largely discontinued in the amalgamated City. In the first eleven months of 2008, Municipal Licensing and Standards conducted 14 building audits and as a result of these issued 17 Orders and Notices of Violation and cited 47 deficiencies. In the meantime, an ageing rental housing stock, both belonging to private and public landlords, in many cases continued to deteriorate largely unabated, resulting in untenable living conditions for many tenants in the city.

As a direct result, Municipal Licensing and Standards, in accordance with its mandate to ensure minimum property and maintenance standards are maintained on all property in the city, launched the MRAB Audit Program on December 1, 2008.

COMMENTS

Multi-residential Apartment Building Audit Program

The following section provides:

1. An overview of the 2009 audit program
2. Audit program enhancements:
 - .1 details of the expansion of the audit program for 2010;
 - .2 a description of apartment unit inspections in 2009 and the enhanced apartment unit Order tracking system for 2010;
 - .3 an account of enhanced mobile office deployment;
 - .4 a description of improved cross-divisional co-operation;
 - .5 details of the elimination of witness fees paid to ML&S for attendance at the Landlord and Tenant Tribunal;
 - .6 a description of a revised landlord communication protocol;
 - .7 an overview of enhanced accountability measures for the program.
3. Other initiatives:
 - .1 landlord and tenant engagement;
 - .2 revision of re-inspection fees;
 - .3 Ward 17 pilot projects;
 - .4 rental escrow account program;
 - .5 landlord fees.

1. Program Overview

From December 1, 2008 to November 30, 2009, the MRAB team conducted 187 building audits, including knocking on approximately 2,700 apartment doors to offer unit inspections. As at December 31, 2009, Municipal Licensing and Standards had issued over 960 Orders and Notices of Violation, representing 9,761 deficiencies. Of these, 3,187 deficiencies had been corrected as at December 31, 2009, compared to 47 in the first 11 months of 2008. As part of pursuing compliance, Municipal Licensing and Standards undertook remedial action on 16 occasions and initiated prosecution on 12 other instances. Improvements to the housing stock in Toronto, that have been initiated through the MRAB audit program, have already exceeded \$6,000,000 in some individual cases.

Staff continue to investigate the development of measures for determining the impact that the program has had on the living conditions of tenants. Staff have looked at evaluation initiatives in New York, as well as a housing condition survey recently conducted by the United Way in Toronto. The New York initiative is likely too extensive and expensive to replicate in Toronto at this time. The United Way survey results will be available later this year, but there are currently no concrete plans to make it an ongoing program. Through the kind of assessment tool that Municipal Licensing and Standards hopes to

develop, staff will be able to monitor building conditions over time and thus better identify where their efforts are having the most impact and how they might be able to improve in any other areas.

2. Program Enhancements

As the program rolled out and staff were faced with issues and challenges, a number of modifications and enhancements were made. Some have already been instituted while others will form part of the program in 2010. Each of them is described in turn.

2.1 Expansion of the audit program

For the initial phase of the program, four buildings in each of the city's 44 Wards were selected for inspection. Ten additional buildings, to be selected randomly, were later added at the request of the Executive Committee, for a total of 186 buildings. For the second year of the program, staff will aim to audit at least 200 buildings across the City. Buildings will be selected in accordance with the following criteria:

- (a) community input (including tenant groups);
- (b) staff knowledge and experience;
- (c) recent enforcement history; and
- (d) Councillor input.

Six teams of two officers each will undertake the audits across the City. In order to realise efficiencies, one team of two officers will focus on follow-up inspections, including the ongoing follow-up at many of the 187 buildings already audited in 2009.

In its ongoing commitment to ensure property standards are applied equally to private and public sector housing, Municipal Licensing and Standards will continue to ensure that both Toronto Community Housing Corporation (TCHC) and other social housing buildings are included in materially proportional rates in the 2010 audit program.

In accordance with the direction from the Executive Committee, staff are also providing a list of TCHC buildings that are currently undergoing revitalisation under programs such as the Building Renewal Program and the Building Energy Retrofit Program (see Appendix A). In order to continue to facilitate the work in these buildings, staff will conduct a pre-assessment of these properties to minimise any negative impact on their ongoing initiatives, notwithstanding the need for any repairs that may result in health or safety hazards to people.

2.2 Dwelling unit inspections

The Executive Committee requested that random dwelling units be inspected, subject to tenant consent, as part of the building audits. In the course of the 2009 audits staff were directed to knock on the doors of at least 10% of the building's units, in an effort to engage tenants and perform dwelling inspections. As part of this effort and in response to

requests from tenant groups, Municipal Licensing and Standards hand-delivered notices to all building apartment units approximately one week in advance to let residents know that such inspections services would be made available to building residents. Officers knocked on approximately 2,700 apartment doors over the course of the first year of the program, which resulted in 226 apartment-unit related Orders being issued (148 of which had been resolved as at December 31, 2009).

2.3 Deployment of mobile office

In addition to the building audit team, Municipal Licensing and Standards deployed its mobile office to act as a command centre for Officers and provide an information and intake hub for the tenants of the building. Staff in the mobile office were available to explain the complaint process to tenants and to provide information on both property standards and related health and safety matters, such as the use of window latches. Along with the notices described above, residents were informed of the attendance of the mobile office.

At the request of the Executive Committee, tenants in adjoining buildings were also informed of the mobile unit and invited to attend if they had any questions or concerns, or if they wanted to make a complaint. Complaints received through the mobile unit were then dispatched to District Officers to avoid bogging down Officers conducting the audits. Complaints received through the mobile office were generally responded to within five business days.

Despite providing notification, only 2.6% of tenants attended the mobile office. Staff determined that the low turnout was largely due to the hours of attendance (i.e., 10:00 a.m. to 2:00 p.m.), which coincide with the regular working hours of a majority of people. As a result, Municipal Licensing and Standards redeployed the mobile office to attend evenings (i.e., 4:00 p.m. to 8:00 p.m.). This, however, resulted in an attendance rate by building residents of only 3.1%. Despite the low turnout, Municipal Licensing and Standards will continue to utilise the mobile office in 2010, both days and evenings, and continue to look for ways of engaging residents and improving attendance.

2.4 Cross-divisional inspections

Shortly after the inception of the program, Municipal Licensing and Standards entered into discussions with Toronto Public Health and Toronto Fire Services to encourage these Divisions to conduct inspections jointly with Municipal Licensing and Standards. The intent behind the involvement of Toronto Public health is to provide information to tenants on health-related matters such as dealing with bed bugs. The intent behind the involvement of Toronto Fire Services is to more expeditiously deal with Fire Code violations.

Toronto Public Health Inspectors began attending building audits with Municipal Licensing and Standards Officers in June, 2009. They have attended approximately 80 buildings and dealt with issues ranging from bed bugs to mould and noxious fumes.

Shortly after the labour disruption, Toronto Public Health temporarily redeployed its Inspectors from the audits to assist in the H1N1 prevention campaign. Their involvement is expected to resume by the spring of 2010. Toronto Fire Services attended 5 buildings with Municipal Licensing and Standards Officers and also dealt with Fire Code related issues referred to them by Municipal Licensing and Standards audit staff.

2.5 Elimination of witness fees for tenants

Currently, when tenants go before the Landlord and Tenant Board for a hearing and require the attendance of a Municipal Licensing and Standards Officer, the relevant provincial legislation requires a witness be paid. Witness fees are generally \$53.00. In 2008, Municipal Standards Officers went before the Landlord and Tenant Board as witnesses a total of 36 times. In 2009, up to mid October, ML&S Officers had attended 20 times. Both Toronto Building and TPH attend about ten times a year each, while Toronto Fire attended twice in 2009 and once in 2008.

Although provided for in the legislation, the City may waive witness fees, at its discretion. At the request of tenant advocates, Municipal Licensing and Standards began waiving such fees, starting January 1, 2010.

2.6 Better communication with landlords

In consultation with landlord groups and property managers, staff identified a number of opportunities for enhancing the effectiveness and efficiency of the program.

Currently, landlords are notified in writing of the date that their buildings will be audited 2 weeks prior to attendance by staff. No other communication between staff and the subject landlords may take place until staff arrive on site on the day of the audit. Landlords may know up to nine business days in advance of their audit, by checking the MRAB web site.

In order to improve communication and allow a greater opportunity for landlords to prepare for their scheduled building audit, schedules will be posted on the web site three, instead of two, weeks in advance. In addition, Municipal Licensing and Standards will also provide written notice at least two weeks in advance of the audit date and shall provide a brief overview of the elements that the Officers will be specifically looking for during the audit. This will permit landlords to make or complete any repairs that they might be able to conduct prior to the audit, as well as compile any documentation that may aid the Officers in conducting their audit. Finally, audit team leads shall be contacting respective landlords and property managers five days before the audit to advise them of the audit team's needs and expectations on the day of the audit. Thus, audits should become more efficient and run more smoothly for both the audit team and landlords.

2.7 Increased transparency and accountability

An important component of the audit program is its accountability mechanism. The MRAB audit program has operational and program accountability mechanisms in place. Operationally, tenants are advised, via posted notices, of audits. Orders for common elements are also posted. Tenants may also obtain, upon request, a copy of the Order for their dwelling units. Municipal Licensing and Standards staff are also on site to provide information about how to file a complaint. With the exception of details for Orders outstanding on dwelling units, all of the information is also available on the City's web site (<http://www.toronto.ca/licensing/mrab.htm>).

Beginning in December 2009, Municipal Licensing and Standards has been providing information to the public at large on Order appeals made by landlords by linking from its web pages to the corresponding information on the Property Standards Committee's web pages. The latter include agendas and minutes from the Committee's District panels. Beginning in 2010, Orders requiring reports from engineers and other qualified professionals, under section 15.8 of the Building Code Act, shall be identified as Report Orders (requirement for information only) on the MRAB web pages to clearly differentiate them from Orders that cite deficiencies.

Report Orders not resulting in Orders that cite deficiencies shall be removed from the web site within 10 business days of them being cleared by the Officer. Orders, and any Report Orders that resulted in the issuance of Orders, shall be removed two years after compliance has been confirmed by the Officer. This time frame is in line with the practice on the Apartment Standards and Investigations Activity web pages.

3. Other Initiatives

Staff considered a number of other initiatives which have been discussed in the context of regulatory strategies for multi-residential apartment buildings. These are discussed in turn.

3.1 Tenant and landlord engagement

Since the MRAB audit program was implemented, staff from Municipal Licensing and Standards have been regularly attending meetings of the Rental Housing Advisory Committee ("RHAC"). Among other things, this committee facilitates co-ordination and support for the network of agencies providing information and advisory services to tenants and landlords, creating a forum for discussion among key stakeholders of issues affecting tenants and landlords. The RHAC also works in the development and dissemination of information materials on matters affecting tenants and landlords, and it helps to maintain and distribute an inventory of community information resources across the City. The RHAC is also a forum where City divisions can seek input from key stakeholders about City policies and services related to rental housing. Membership in the RHAC includes:

- Community Legal Clinics;
- Tenant Duty Counsel Program;
- Legal Aid Ontario;
- Tenant/Landlord Service & Advocacy Organisations;
- Tenant/Landlord Umbrella Organisations;
- Housing Help Centres;
- Councillors' Offices; and
- Other Participants, such as individual tenants or tenant representatives from individual rental buildings.

Meetings are held quarterly and scheduled by Shelter, Housing and Support Division in consultation with the RHAC. (More detailed information, including meeting agendas and minutes, are available at <http://www.toronto.ca/housing/rhac.htm>.)

3.2 Re-inspection fees

At its January 14, 2009 meeting, the Licensing and Standards Committee adopted staff recommendations for a new fee structure for re-inspection fees intended to recover the additional costs of having to attend properties as a result of the failure by their owners to comply. (See the report at <http://www.toronto.ca/legdocs/mmis/2010/ls/bgrd/backgroundfile-26205.pdf>.) This fee is expected to raise additional revenue of approximately \$195,000 (city-wide) to help offset some of the additional costs associated with the expanding audit program, including the opportunity cost associated with the additional redeployment of staff from the Districts.

3.3 Pilot project at Symington Place and Pelham Park Gardens (Ward 17)

As part of meeting the Licensing and Standards Committee's request to continue the pilot project at Symington Place and Pelham Park Gardens, the two properties were included in the MRAB audit program. The properties were audited on October 22, 2009 and September 24, 2009 respectively.

3.4 Rental escrow account program

In consultation with Legal Services, Municipal Licensing and Standards examined the feasibility of establishing a rental escrow account program ("REAP"), similar to the one employed by the City of Los Angeles in the United States.

In Ontario, there is provincial legislation governing both the enforcement of property standards and the legal rights and responsibilities of residential landlords and tenants. The Building Code Act deals generally with enforcement of property standards. The enforcement of the Building Code Act has been delegated to municipalities. There is nothing in the Act that allows the City to implement REAP as an enforcement tool in respect of landlords.

The Residential Tenancies Act (“RTA”) deals with a landlord’s obligation in the context of the landlord and tenant relationship to comply with property standards in respect to rental complexes and the rental units in it. The Landlord and Tenant Board, established by the RTA, has exclusive jurisdiction with respect to all matters conferred to it by the RTA. As such, the City has no authority to act in respect to the matters dealt with in the RTA.

REAP would require the City to have the authority to order an abatement of rent, prohibit rent increases for a period of time, allow tenants to pay their rent into an escrow account, hold the rent money in escrow until all property standards and maintenance violations are corrected, and prohibit landlords from evicting any tenant paying rent into the City’s escrow account. All of these powers are currently in the exclusive jurisdiction of the Board under the RTA.

Comprehensive provincial legislation would be required to delegate to the City the jurisdiction to deal with matters that are currently governed by the RTA and within the exclusive jurisdiction of the Board. The legislation would have to delegate to the City jurisdiction over enforcement of the landlord’s obligation to maintain residential rental complexes and rental units, and specifically allow for the proposed REAP as a tool of enforcement. There may be various ways in which such legislative changes could be implemented, including a delegation of jurisdiction in the City of Toronto Act, along with the amendments to the RTA to recognise the City’s jurisdiction in this area and address the implications of that jurisdiction on other aspects of landlord and tenant obligations still governed by the RTA and within the jurisdiction of the Board. The City Solicitor has indicated that carving out the enforcement of the landlord’s obligation with respect to property maintenance and repair from the broader statutory rights and obligations within the landlord and tenant relationship, would be a significant complication of an already complicated legislative and judicial framework; the scope and complexity of the necessary amendments would be considerable. It is the opinion of Staff that, although theoretically possible, it is quite unlikely that the Province would be amenable to such a legislative proposal.

3.5 Landlord fees

Staff have given consideration to the possibility of introducing a landlord fee to cover the costs associated with the expansion of the MRAB audit program. A number of Canadian and American municipalities do institute some version of a fee model to fund their enforcement program. Although this approach could be used in Toronto as well, staff believe that there is an enforcement imbalance that needs to be addressed first. Currently, although rental properties make up about one half of all residents, considerably less than half of enforcement effort is devoted to these properties. Staff believe that a more balanced approach, with a greater emphasis on rental properties and a consequent redeployment of resources, will result in an adequate level of staffing for the MRAB audit program in 2010.

Equity Impact Statement

The MRAB Audit program is an initiative that directly touches the lives of an extensively diverse population of renters in the city, including people of diverse cultural and linguistic backgrounds and varying degrees of physical and cognitive disabilities. In an ongoing effort to make the program as accessible as possible, some of the program's key outreach materials are provided, both on the web and in printed form, in various languages. In addition, staff have consulted with tenant groups and worked with City communications staff to ensure materials are clear and accessible.

Staff continue to look for ways to make the audit and inspection process more transparent and accessible to tenants. This has been done by individually advising tenants of when staff will be attending their building and how they may get their complaints to the city if they are not home at that time. In addition, audit staff have begun varying the times of day the community mobile office is available in an effort to capture a broader working demographic. Staff have been evaluating the differences in tenant response to the various approaches and will continue to adjust the program to improve its reach.

The majority of the initiatives and measures described in this report are intended to increase the program's accessibility and transparency.

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SIGNATURE

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Municipal Licensing and Standards

ATTACHMENTS

Appendix A: Not-for-profit Buildings Under Revitalisation Programs

Appendix A

Not-for-profit Buildings Under Revitalisation Programs

Toronto Community Housing Corporation:

Building Renewal Program	Development Name	Address
Ameresco	Mornelle Ellesmere	110 Mornelle Crt.
	Lawrence Orton	3939 Lawrence Ave. E. 3941 Lawrence Ave. E. 3943 Lawrence Ave. E. 3945 Lawrence Ave. E. 3947 Lawrence Ave. E.
	Kingston Galloway	4301 Kingston Rd. 4305 Kingston Rd. 4311 Kingston Rd. 4315 Kingston Rd. 4321 Kingston Rd. 4325 Kingston Rd. 4331 Kingston Rd.
	Morningside Ling	225 Morningside Ave.
	Bleecker Street 1	275 Bleecker St. 325 Bleecker St. 375 Bleecker St.
	Wellesley St. E (200)	200 Wellesley St. E.
	Agnes MacPhail	404-422 Lumsden Ave. 424-442 Lumsden Ave. 444 E Lumsden Ave. E 444 W Lumsden Ave. W
	Kennedy Road	20 Eppleworth Rd. 30 Eppleworth Rd. 675 Kennedy Rd.
	Parkwoods Rayoak	14 Rayoak Rd. 51 Parkwoods Village Dr.

Building Renewal Program	Development Name	Address		
MCW	Kennedy Glamorgan	6 Glamorgan Ave.		
	Dunn Avenue	245 Dunn Ave.		
	Blake Boulton	10 Boulton Ave. 20 Boulton Ave. 30 Blake St. 40 Blake St. 50 Blake St. 60 Blake St. 70 Blake St. 80 Blake St.		
			Moss Park	275 Shuter St.
				285 Shuter St.
				295 Shuter St.
			Jane Firgrove	2-14 Needle Firway
				22-36 Needle Firway
5 Needle Firway				
Jane Falstaff	10 Falstaff Ave.			
	20 Falstaff Ave.			
	30 Falstaff Ave.			
	40 Falstaff Ave.			
Humber Boulevard	105 Humber Blvd.			
	107 Humber Blvd.			
	109 Humber Blvd.			
	111 Humber Blvd.			
	115 Humber Blvd.			
	117 Humber Blvd.			
	119 Humber Blvd.			
Pelham Park Gardens	100-114 Pelham Ave.			
	1-11 Pelham Park Gardens			
	12-35 Pelham Park Gardens			
	135-171 Osler St.			
	36-46 Pelham Park Gardens			
	47-60 Pelham Park Gardens			
52-82 Pelham Ave.				
61 Pelham Park Gardens				

Building Renewal Program	Development Name	Address
	Eglinton Markham	3171 Eglinton Ave. E. 3181 Eglinton Ave. E.
	Gerrard River	220 Oak St.

Toronto Community Housing Corporation:

Building Energy Retrofit Program	Development Name	Address
Ameresco	Weston Towers	3101 Weston Rd.
	Finch Brahms	2 Brahms Ave. 5 Brahms Ave. 4-14 & 7-21 Brahms Ave.
	Weston Bellevue	5 Bellevue Court
	Mabelle Place	49 Mabelle Ave.
	High Park Quebec	100 High Park Ave. 117-123 & 127-129 Quebec Ave.
	Collegeview Apts.	423 Yonge St.
	Finch Tobermory	15 Tobermory Dr.
	Teesdale Pharmacy	30 Teesdale Place 40 Teesdale Place
	Danforth Midland	10 Gordonridge Place 30 Gordonridge Place 40 Gordonridge Place
	Finch Birchmount	2821 Birchmount Rd. Glendower Circuit
	Jane Woolner	190 Woolner Ave.
Gilder Drive	31 Gilder Dr. 47-51 Gilder Dr. 81-85 Gilder Dr.	

Building Energy Retrofit Program	Development Name	Address
Johnson Controls	Sparroway-Leslie Finch	1 Field Sparroway
	Rowntree Manor	2765 Islington Avenue
	Trimbee Court	30 Denarda St.
	The Esplanade	176 The Esplanade 171 Front St. E.
	Pembroke Mews	200 Sherbourne St.
	Sherbourne Shuter	155 Sherbourne St.
	Woodland Acres	40 Firvalley Court