

**70 and 72 Carlton Street –Residential Rental Demolition
Application Under Municipal Code Chapter 667 – Final
Report**

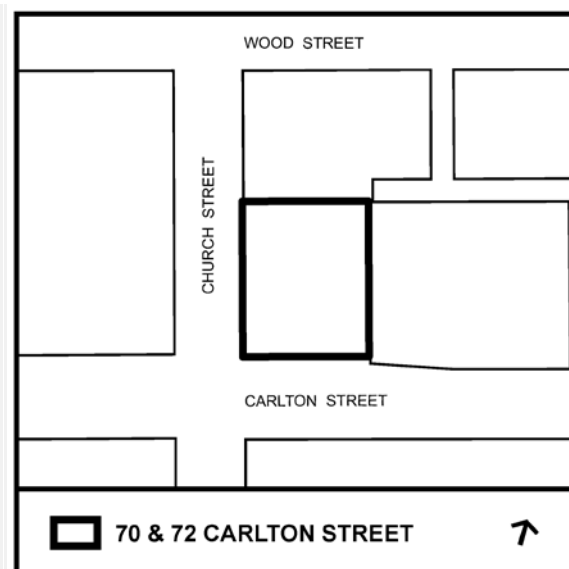
Date:	May 22, 2015
To:	Toronto East York Community Council
From:	Director, Community Planning, Toronto East York District
Wards:	Ward 27– Toronto Centre-Rosedale
Reference Number:	Rental Housing Demolition Application 13 135082 STE 27 RH (Zoning Amendment Application 13 135076 STE 27 OZ) (Site Plan Application 13 135070 STE 27 SA)

SUMMARY

A Section 111 rental housing demolition permit application under the Municipal Code has been submitted for the building at 72 Carlton Street to demolish 13 residential rental units, comprised of 1 one-bedroom and 12 bachelor apartments at affordable and mid-range rents. The units are located above and below a commercial use in a two storey building. The demolition of the rental housing is prohibited without a Section 111 permit issued under the City of Toronto’s Rental Housing Demolition and Conversion By-law (Chapter 667 of the Municipal Code).

The owner is proposing the full replacement of the 13 residential rental units by size and by at least the same types within a new 37-storey condominium development which is the subject of related Zoning By-law Amendment and Site Plan Approval applications which are under appeal to the Ontario Municipal Board.

City Council at its meeting of May 5, 2015, adopted recommendations on the Zoning By-law Amendment and Site Plan approval applications to advise the



Ontario Municipal Board that, subject to resolution to the satisfaction of the City of all matters related to the appeal, the City supports a settlement in principle for a 37-storey building on the site.

As part of the settlement, the final report recommending approval of the Section 111 application for Rental Housing Demolition is to be brought forward to the Council meeting of July 7, and 8th 2015.

This report provides the results of the negotiations on the rental housing matters as it affects the replacement of rental housing. This report recommends the approval of a Section 111 permit under Chapter 667 and Chapter 363 of the Municipal Code and entering into an Agreement under Section 111 for the demolition of the 13 existing rental units, subject to conditions including the full replacement of the 13 rental units by size and the provision of tenant relocation assistance for eligible tenants including the right for all tenants to return to occupy a rental unit in the new building.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council approve the application to demolish the 13 existing residential rental units located in the building at 70-72 Carlton Street pursuant to Municipal Code Chapters 667 and 363 subject to the following conditions under Chapter 667 which provide for the replacement of rental housing as outlined in the report from the Director, Community Planning, Toronto and East York District, titled: "70 and 72 Carlton Street - Residential Rental Demolition Application under Municipal Code Chapter 667 Final Report ", dated May 22, 2015:
 - a. the owner shall provide and maintain thirteen (13) residential rental units on the subject site as rental housing for a period of at least 20 years, comprising at least eight (8) bachelor, three (3) one-bedroom, and two (2) two-bedroom units, with plans and revisions to the satisfaction of the Chief Planner, Executive Director City Planning and of which at least two (2) two- bedroom units shall have affordable rents and two (2) bachelors shall have no rent stipulation, and the remainder shall have rents no higher than mid-range rents;
 - b. the owner shall provide tenant relocation assistance to eligible tenants, including: an extended notice period; financial assistance beyond the minimums of the *Residential Tenancies Act*; and the right to return to a replacement rental unit for all of the tenants (the "Tenant Relocation and Assistance Plan"), and that the Tenant Relocation and Assistance Plan shall be to the satisfaction of the Chief Planner and Executive Director, City Planning;

- c. the owner shall enter into and register on title one or more Section 37 and Section 111 Agreement(s) to secure the conditions outlined in (a) and (b) above and as will be described in the final Zoning By-law Amendment; and,
 - d. the owner shall enter into and register on title, a Section 118 Restriction under the *Land Titles Act* (to the satisfaction of the City Solicitor) agreeing not to transfer or charge those parts of the lands, comprising the 13 replacement rental units, without the written consent of the Chief Planner and Executive Director, City Planning or her designate, to assist with securing the Section 111 Agreement against future owners and encumbrances of the lands until such time as the City Solicitor determines that its registration on title is no longer required to secure the provisions of the Section 111 Agreement.
2. City Council authorize the Chief Planner and Executive Director, City Planning to issue preliminary approval to the application under Municipal Code Chapter 667 after the latest of the following has occurred:
- a. satisfaction or securing of the conditions in Recommendation 1;
 - b. after the Zoning By-law Amendment for the proposed development subject of the report of April 28, 2015, from the City Solicitor has come into full force and effect;
 - c. Notice Of Approval Conditions for site plan approval has been issued by the Ontario Municipal Board or by the Chief Planner and Executive Director, City Planning or her designate, pursuant to Section 114 of the *City of Toronto Act, 2006*; and,
3. City Council authorize the Chief Building Official to issue a Section 111 permit under Municipal Code Chapter 667 after the Chief Planner and Executive Director, City Planning has issued the preliminary approval referred to in Recommendation 2.
4. City Council authorize the Chief Building Official to issue a permit under Section 33 of the *Planning Act* for 70-72 Carlton Street no earlier than issuance of the first building permit for excavation and shoring of the proposal subject of the report from the City Solicitor dated April 28, 2015, and after the Chief Planner and Executive Director, City Planning has issued the preliminary approval referred to in Recommendation 2, which permit may be included in the demolition permit for Chapter 667 and under Chapter 363 of the Municipal Code, on condition that:
- a. the owner erect a residential building on site no later than three (3) years from the day demolition of the buildings is commenced; and

- b. should the owner fail to complete the new building within the time specified in Condition 4 (a), the City Clerk shall be entitled to enter on the collector's roll, to be collected in a like manner as municipal taxes, the sum of twenty thousand dollars (\$20,000.00) for each dwelling unit for which a demolition permit is issued, and that each sum shall, until payment, be a lien or charge upon the land for which the demolition permit is issued.
5. Authorize the appropriate City officials to take such actions as are necessary to implement the foregoing, including execution of the Section 111 Agreement.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

A Preliminary Report outlining the Zoning By-law Amendment and Site Plan applications was submitted to the Toronto and East York Community Council on May 14, 2013. The Preliminary Report can be viewed at the following link:
<http://www.toronto.ca/legdocs/mmis/2013/te/bgrd/backgroundfile-57812.pdf>

Subsequently, the applicant appealed the Zoning By-law Amendment and Site Plan applications to the Ontario Municipal Board, citing City Council's failure to make a decision within the time prescribed by the *Planning Act*.

The Ontario Municipal Board facilitated a mediation of the dispute on January 16 and 20, 2015. The parties and neighbourhood participants were unable to resolve their concerns.

On May 5, 6, and 7th 2015, Toronto City Council considered a report from the City Solicitor dated April 28, 2015 with respect to the appeal. This report can be viewed at the following link:
<http://www.toronto.ca/legdocs/mmis/2015/cc/bgrd/backgroundfile-79676.pdf>

With respect to the rental housing demolition and replacement matters, City Council's recommendations for the settlement of the appeal can be found at:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC6.7>

and specifically, to satisfy the Official Plan policy on rental demolition included:

(Recommendation #1.b)

" The owner shall enter into an agreement under section 37 of the *Planning Act* to secure the obligations relating to rental housing demolition control and replacement of rental dwelling units on the lands with a suitable tenant assistance plan and securing the right of tenants to return to a new unit at similar rent"

(And Recommendation #3)

" The Director of Toronto East York Community Planning report to the June 16th, 2015 meeting of Toronto and East York Community Council with respect to rental housing demolition considerations and Council consider at its July 7 and 8, 2015 Council meeting the application under section 111 of the *City of Toronto Act* and measures as appropriate to address rental housing demolition and replacement considerations, with the applicant to enter into a rental housing protection agreement under section 111 of the *City of Toronto Act* to the satisfaction of the Director in consultation with the City Solicitor. "

This property has not been the subject of a previous application for demolition or conversion of any rental units over the previous five year period.

ISSUE BACKGROUND

Proposal

This application for a Section 111 permit proposes to demolish a two storey mixed use building with 13 residential rental units, and provide full replacement of the 13 residential rental units and tenant relocation assistance. Replacement would be provided on-site within the proposed new 37-storey residential development.

Site and Surrounding Area

The subject property is located at the northeast corner of Church Street and Carlton Street and is occupied by two 2-storey buildings. The site has a total site area of 1,770 square metres, with a frontage of 37.9 metres on Carlton Street and 46.7 metres on Church Street.

The building at 70 Carlton Street is an office/commercial building. The building at 72 Carlton Street is a commercial/residential building and is occupied by a restaurant and bar on the ground floor and 13 residential rental units located on the second floor and basement level of the building. The residential rental units are subject to Official Plan Policy 3.2.1.6 and Section 111 of the *City of Toronto Act, 2006*, related to rental housing demolition and replacement.

West: Maple Leaf Gardens heritage building that has been converted to a supermarket on the main floors with athletic facilities on the upper floors. Further west on the north side of Carlton Street is a 23-storey hotel, a 15-storey residential building, and 10-storey and 18-storey office buildings.

At the southwest corner of Carlton Street and Church Street is a 3-storey listed heritage building occupied by a bank. West of the bank is a 20-storey residential building with a 2-storey base element with grade-related retail and restaurant uses, and a mixed-use development with 43 and 33-storey towers.

South: At the southeast corner of Carlton Street and Church Street is a 4-storey office building, a 12-storey Toronto Community Housing residential building and a 16-storey residential building.

North: A surface parking lot is located immediately north of the site, with an 8-storey Toronto Community Housing residential building east of the parking lot. There is a public lane within the block that extends to Mutual Street.

East: Immediately east of the site is a 12-storey residential building which has 154-units for seniors and persons with physical disabilities. The Carlton Street portion of the building is 7 storeys in height. Further east on the north side of Carlton Street are mid-and-high rise buildings including a 22-storey hotel, 10-storey residential building and a 15-storey residential building.

The Planning Act

Section 2 (j) of the *Planning Act* lists "the provision of a full range of housing, including affordable housing" as a matter of provincial interest that municipalities shall have regard for when making planning decisions under the *Planning Act*.

Provincial Policy Statement and Provincial Plans

The 2014 Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources and protecting public health and safety.

The recently updated housing policies of the PPS require planning authorities to provide for an appropriate range of housing, including affordable housing, to meet the needs of current and future residents. The new 2014 PPS, through Policy 1.2.1 h, directs municipalities to address housing needs in accordance with the Ontario Housing Policy Statement (OHPS). The OHPS was introduced as part of the Province's "Long-Term Affordable Housing Strategy" and is referred to under the *Housing Services Act, 2011*. The *Housing Services Act* states that it is a matter of provincial interest that there be a system of housing and homelessness services. Such a system should among other matters, address the housing needs of individuals and families, and allow for a range of housing options to meet this broad range of needs. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. City Council's planning decisions are required to be consistent with the PPS.

Official Plan

Section 3.2.1 Housing Policy

This redevelopment proposal and demolition application is subject to the Official Plan's Housing policies, in particular policy 3.2.1.6 regarding the loss of rental housing.

Policy 3.2.1.6 states that new development that would have the effect of removing all or a part of a private building or related group of buildings and result in the loss of six or more rental housing units will not be approved unless all of the rental housing units have rents that exceed mid-range rents at the time of application, or the following are secured:

- replacement with at least the same number, size and type of rental housing units;
- the rental housing is to be maintained as such with no condominium registration, with rents similar to those in effect at the time the application is made, for a period of at least 10 years; and
- an acceptable tenant relocation and assistance plan is required, addressing: the right to return to occupy one of the replacement units at similar rents; the provision of alternative accommodation at similar rents and other assistance to lessen hardship.

Other assistance typically includes the provision of moving allowances both out of the existing building and for tenants who choose to return, a moving in allowance.

Rental Housing Demolition and Conversion By-law

The Rental Housing Demolition and Conversion By-law (885-2007), contained in Chapter 667 of the City's Municipal Code, implements the City's Official Plan policies protecting rental housing. The By-law implements the City's policies protecting rental housing. The By-law prohibits demolition or conversion of rental housing units without obtaining a permit from the City issued under Section 111 of the *City of Toronto Act*. Proposals involving the loss of six or more residential units, wherein one or more of the units are rental, require the submission of a Section 111 application. Council may refuse an application, or approve the demolition with conditions that must be satisfied before a demolition permit is issued under the *Building Code Act*.

A related application, such as a rezoning, triggers the requirement for an application under Chapter 667 for rental demolition or conversion, and typically City Council decides on both applications at the same time. Unlike *Planning Act* applications, decisions made by the City under By-law 885-2007 are not appealable to the OMB. In this case, the development's Zoning By-law amendment will be considered at the Ontario Municipal Board.

Under Section 33 of the *Planning Act* and Municipal Code Chapter 363, Council has the authority to approve or refuse a demolition permit, except in cases where a building permit has been issued to construct a new building. The proposed demolition requires

approval under both Section 33 of the *Planning Act* and Section 111 of the *City of Toronto Act*. Section 363-11.1 of the Municipal Code provides for the co-ordination of these two processes. The Chief Building Official may issue one demolition permit for the purposes of Section 33 of the *Planning Act* and Chapter 667 of the Municipal Code.

Site Plan Control

The proposal is subject to Site Plan Control. The applicant has submitted a Site Plan Application (13 135070 STE 27 SA) that is currently under appeal and subject to the proposed settlement.

Reasons for Application

A Rental Housing Demolition and Conversion Application under Section 111 of the *City of Toronto Act* (Chapter 667 of the Municipal Code) is required to permit the demolition of the existing residential rental building.

Community Consultation

Chapter 667 requires the City to hold a community consultation meeting to consider matters under the by-law and the impact on tenants prior to the submission of a report to Community Council. Invitations were extended to the affected tenants for a meeting which was held on May 20, 2015 to consider the rental housing issues.

At the meeting, tenants expressed concerns regarding the demolition of their homes prior to and during the construction period. A few tenants were concerned about looking for units on the market within the local area because they unusually large units and are worried about finding interim accommodation at the local area rents.

The majority of tenants were satisfied with the size and layouts of the units, the prospect of living in a new building, that notice and moving allowances would be provided and that they would have the right to return to a unit after construction at a rent similar to the one they are currently paying.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions.

COMMENTS

***Planning Act* and Provincial Policy Statement**

The proposal is consistent with the *Planning Act* and the PPS as it provides for the residential intensification of the site with new condominium units while still retaining the valuable housing tenure options represented by the 13 affordable and mid-range rental replacement units.

Rental Housing

The 13 residential units within the 72 Carlton Street building are comprised of 12 bachelor units ranging from 440 square feet to 970 square feet, and one 980 square feet

one-bedroom unit. The rents of 9 units were midrange and 4 were high-end at the time of application. At the writing of this report, 6 of the units were tenanted. The rental building is subject to the *Residential Tenancies Act*, which has notice and compensation provisions for all tenants requested to vacate for demolition.

Replacement Rental Housing

The owner has agreed to replace the 13 existing rental units with 13 new rental units of approximately the same sizes as the existing units. Due to the unusually large sizes of the existing units, and the fact that many of the units in the basement were unusually configured, with one window and very low ceilings, a variety of unit types are proposed as replacement units, as shown in Table 1.

There are currently two alternative replacement proposals from the applicant, which depend upon the decision Council makes with respect to taking a Section 37 community benefit as a financial contribution or by way of provision of community space within the development proposal. The first proposal is the original proposal for rental replacement proposed prior to the OMB appeal, wherein the units would be located on the second floor with other residential condominium units. In the second proposal, the condominium units would be replaced with a community use space that would be separate from the residential rental replacement units.

In the first proposal, the replacement units are a little larger overall. In the second proposal, the replacement units are a little smaller, but are still adequate to meet the City's policies and practice, and a few have private outdoor amenity space. Staff are satisfied that in either proposal the new rental units would have adequate living space, including in-suite storage. Both proposals were presented to the existing tenants.

The current tenants were pleased that units in both proposals would be of similar size to the current ones and further would have new standards with efficient heating and cooling systems, ensuite laundry, bike storage and would be located on the second floor with many facing the street. They were also pleased that they would be able to access the amenity spaces in the new building.

Staff are satisfied with either of the revised plans for the replacement units that show the replacement of the existing units at either 99% or 101% of the total existing GFA. Through the review process many unit layouts were improved.

The Zoning By-law will secure the provision of the units and the Section 37 and Section 111 Agreements will require that the new units be at least 97% of the existing GFA, to allow flexibility in the construction of the building.

Table 1: Existing vs. Proposed Unit replacement by size and type

Original	Original Size	Option 2				Option 1			
Unit	Sq.Ft	Unit	type	Sq.Ft	%	Unit	type	Sq.Ft	%
L1	608	204	bach	582	0.957	204	bach	582	95.72%
L2	608	205	bach	582	0.957	205	bach	582	95.72%
L3	658	211	bach*	665	1.011	211	bach *	669	101.67%
L4	440	219	bach*	406	0.923	213	bach	563	127.95%
L5	544	207	bach	555	1.02	207	bach	555	102.02%
1	670	210	bach*	674	1.006	210	bach*	674	100.60%
2	570	206	bach	582	1.021	206	bach	582	102.11%
3	790	218	bach*	768	0.972	209	1 bed	813	102.91%
4	880	203	1 bed	900	1.023	208	2 bed	953	108.30%
5	970	208	2 bed	953	0.982	214	2 bed	1008	103.92%
6	740	201	1 bed	761	1.028	212	bach	582	78.65%
7	800	209	1 bed	813	1.016	203	1 bed	900	112.50%
8	980	202	2 bed	1046	1.067	202	2 bed	1046	106.73%
	9258			9287	0.999			9509	102.99%

*indicates a proposed accessible unit

The Zoning By-law and/or Section 37 Agreement will specify the provision of units that meet the minimum requirements as follows:

- 8 bachelor units with a minimum of 406 sq ft, of which 4 units shall be larger than 555 sq ft, and 1 shall be larger than 650 sq ft.
- Minimum of 2 one-bedroom units which shall be larger than 760 sq ft, of which 1 shall be larger than 813 sq ft
- Minimum of 2 two-bedroom units with a minimum of 950 sq ft and one shall be at least 1000 sq ft.
- The combined floor areas for all 13 replacement rental units shall not be less than about 97% of the combined floor areas for the 13 existing rental units (not less than 8 980 sq ft)
- At least 2 units shall be accessible units

The rental housing component is to have 13 associated secure bike lockers and 2 parking spaces with tenants choosing to return having the first choice. The parking rate for tenants will be capped at a rate of \$125/space/month in the first year of occupancy. Tenants will have full access to the shared amenity spaces of the building at no extra charge unless pre-booking or if a deposit is required. This is similar to the process required for the condominium portion of the building.

Tenant Relocation and Assistance Plan

The following comprises the proposed assistance package:

- a. A moving allowance of \$1,700, and a move-back allowance of \$1,700 if they return to a replacement unit.
- b. 3 months' rent compensation as per RTA provisions, plus all tenants shall receive a further two months' rent worth.
- c. A further "Rent-gap" compensation for an approximate difference between the rent of the occupied unit and the average market area rent by approximate type. With smaller bachelors being compared to bachelors, and large bachelors (+650 sq ft) being comparable to one-bedroom units, for an average vacancy of 30 months for the expected length of construction to aid with hardship.

The proposed Tenant Relocation and Assistance Plan goes beyond the minimum requirements of the *Residential Tenancies Act* by increasing the 4 month notice period for tenants to vacate to 6 months, and by providing additional financial assistance beyond the *Residential Tenancies Act* required payment equal to 3 months' rent for eligible tenants. This includes moving allowances, and extra assistance based on a 'rent-gap compensation' and special assistance for tenants deemed to have special needs. Eligible tenants will have the right to return to a similar rental unit in the new building, at rents similar to those paid in their existing apartment.

Rent Provisions

This report recommends that all 13 of the rental units be secured as rental housing for at least twenty years with no application for condominium registration, demolition or for conversion to any non-rental housing purposes during this period.

Due to the unusual circumstance of the very large bachelor units being replaced by larger types, it was negotiated with the developer that some units that were previously high end, but being replaced at a larger type (ie. A one-bedroom for a bachelor) but not size, would be midrange, and a couple that were previously midrange but are being replaced as a larger type would be affordable (two-bedroom units for bachelor/one-bedroom units).

The 2 affordable rental units and 9 mid-range rental units will have rents secured in the Section 37 and Section 111 Agreements according to the City's standard practices. Rents for tenants moving in during the first 10 years shall be no higher than the CMHC average market rent in the case of affordable rents, and no more than 1.5 times average market rent for the mid-range units. For returning tenants, the initial rents will not exceed the mid-range rent limits and will be based on their last rent paid with permitted annual rent guideline increases that would have otherwise occurred during the intervening period until the building is available for move-in, and a 4% increase representing a new building allowance.

Annual increases are limited to the provincial rent guideline increase, and above-guideline increases if applicable, during this first 10 year period. For any tenant who

remains after the tenth year, these protections will continue until the earlier of when they move out or the 20th year of the new building's occupancy, followed by a 3 year phase in to unrestricted market rent. Commencing in the 11th year, any new tenants may be charged unrestricted market rents.

Conclusion

The replacement proposal, including the proposed Tenant Relocation and Assistance Plan, meets the applicable Official Plan policies and is consistent with the City's standard practices for rental replacement. The Zoning By-law Amendment will provide for securing these matters in a Section 37 Agreement. Any final order of the Ontario Municipal Board approving the proposed development should be withheld until such time as the form of the Zoning By-law Amendment has been finalized and a Section 37 Agreement with provision for the rental housing replacement has been entered into.

Staff are recommending that Council approve the demolition of 13 residential rental units conditional on the applicant providing the replacement rental housing and tenant relocation assistance as outlined in this report, and entering a into Section 111 Agreement to the satisfaction of the Chief Planner and Executive Director, City Planning and to secure these conditions contained in the recommendations section of this report consistent with the provisions of the Draft Zoning By-law Amendment to be considered by the Ontario Municipal Board.

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SIGNATURE

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