



STAFF REPORT ACTION REQUIRED

Update on Review of the Tenant Defence Fund

Date:	October 18, 2016
To:	Tenant Issues Committee
From:	General Manager, Shelter, Support and Housing Administration
Wards:	All
Reference Number:	

SUMMARY

This report provides an update on the review of the Tenant Defence Fund (TDF), including a summary of the legislation for above-guideline rent increases across Canada to provide clarity on the legislative context for the program.

In undertaking the preliminary stages of the TDF review, staff have identified that it will be important for the review to be considered in the context of a number of other initiatives underway as part of Shelter, Support and Housing Administration's (SSHA's) Housing Stability Service Plan, to ensure coordinated access to and effectiveness of tenant support services funded by SSHA.

SSHA will report back to Tenant Issues Committee in 2017 with further results of this review and recommendations for next steps.

RECOMMENDATION

The General Manager, Shelter, Support and Housing Administration, recommends that:

1. the Tenant Issues Committee receive this report for information.

Financial Impact

There are no financial impacts associated with this report.

Equity Impact

Housing and homelessness services, including SSHA's private market tenant programs, serve a range of equity seeking groups including people experiencing homelessness, the working poor, youth, seniors, Aboriginal people and other vulnerable groups.

DECISION HISTORY

At its meeting of May 17, 2016, the Tenant Issues Committee adopted the proposed next steps for the review of the Tenant Defence Fund.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TD3.1>

ISSUE BACKGROUND

In May 2016, SSHA reported on a review of the Tenant Defence Fund (TDF). The report provided a detailed overview of the TDF, which is comprised of a Tenant Support Grant Program and an Outreach and Organizing Program:

1. The Tenant Support Grant Program (Grant Program), administered by SSHA, provides direct grants of up to \$1,000 to tenant groups to retain legal and other representation for participation in the legal process regarding above-guideline rent increase applications at the Landlord and Tenant Board (LTB), and demolition or condominium conversion appeals at the Ontario Municipal Board (OMB).
2. The Outreach and Organizing Program (Outreach Program) helps tenants organize to prepare their defence before the LTB and/or the OMB, and to make applications to the Grants Program. SSHA currently has a contract with the Federation of Metro Tenants' Associations (FMTA) to deliver this program.

Also in the May 2016 report, SSHA identified the key components of the TDF review including:

1. Program Mandate
To understand the impact of above-guideline rent increases and review whether the TDF continues to meet its mandate.
2. Models of Providing Tenant Outreach and Information Services
Review possible options for providing tenants information and outreach.
3. Sector Capacity
Determine the sector's ability to provide the deliverables identified and development of a plan to assist the sector as required.

COMMENTS

Legislative Context for Above-Guideline Rent Increases

Following the above outline, SSHA began a review of the current landscape of tenant supports at the City of Toronto and other jurisdictions with respect to above-guideline rent increases (AGIs). There are few projects comparable to the TDF in other jurisdictions due to the legislative environment of landlord and tenant law in Ontario. In order to provide context for the TDF review, SSHA reviewed rent control legislation across Canada. An outline of the legislative contexts in all provinces and territories is included in Attachment 1.

Five provinces - British Columbia, Manitoba, Ontario, Prince Edward Island and Quebec - have rent control legislation. The objective of rent control policies is to regulate how much a landlord can increase rent each year to keep housing affordable. However, each province with rent control has its own process for landlords to increase rent above the guideline amount. A review of legislation from across Canada reveals the unique legislative context of rent control in Ontario.

In Ontario, a landlord seeking an AGI may apply to the Landlord and Tenant Board. The LTB is a tribunal that has exclusive jurisdiction to apply the *Residential Tenancies Act, 2006* (RTA). The LTB resolves disputes between landlords and tenants through mediation or adjudication. Applications to the LTB can come from either landlords or tenants. Applications from tenants can include rent rebate, rent reduction, maintenance and suite meters. Applications from landlords can include eviction, AGIs and collection of rent owed. AGIs represent a small portion of applications brought to the LTB. In 2013-2014, there were 438 applications to the LTB for AGIs (0.6% of total applications), compared to 60,144 applications to the LTB for evictions (81.1% of total).

Once a landlord applies for an AGI, the LTB will schedule a hearing within 30 days. A Member of the Board oversees the hearing and gives opportunity for both the landlord and the tenant to present their case and ask questions. If a landlord applies for an AGI because of capital expenses and security services, the LTB can allow the landlord to increase rent by up to 3% above the guideline.

TDF Program Mandate and Data Collection

When the Tenant Defence Fund was created in 2000, the *Tenant Protection Act, 1997* was in effect in Ontario and there was concern that the high number of AGIs awarded by the Ontario Rental Housing Tribunal were threatening housing affordability. The TDF was proposed by the Sub-Committee to Restore Rent Control to assist tenants and tenants associations wishing to oppose unreasonable above-guideline rent increases at the Tribunal. The Province updated its landlord-tenant legislation in 2006, bringing into effect the *Residential Tenancies Act, 2006*. The RTA was meant to respond to advocacy

efforts from the community, the City of Toronto and other municipalities for landlord-tenant legislation to be more balanced.

Given this change in legislation, one way to assess the ongoing relevance of the TDF in preserving housing affordability would be to compare AGIs before 2007 and from 2007 onwards, when the RTA took effect. This data would provide a picture of how the change in provincial legislation has affected tenant outcomes in AGI disputes. However, decision data from the LTB has only been continuously collected since 2009, making this aspect of review infeasible.

In addition, decision documents at the LTB do not specify the exact AGI percentage requested by the landlord, only the amount approved. This means that SSHA cannot assess the difference between AGIs awarded when tenant groups receive a TDF grant compared to when they do not receive a grant.

While these data limitations have impacted SSHA's original plan related to understanding how the RTA has impacted AGIs and the effectiveness of TDF grants in reducing AGIs, they have highlighted the need for broader discussions about how to better preserve housing affordability in Toronto. As noted above, AGIs comprised only 0.6% of applications at the LTB in 2013-2014. The vast majority of applications were for evictions, which potentially have a greater impact on overall housing affordability due to the substantial rent increases that can be applied through vacancy decontrol. In Ontario, when a tenant moves out the landlord can increase the rent as much as they wish. This can allow prices to increase dramatically with a new tenant and encourages the eviction of long-term tenants, whose rent is lower than others in the neighbourhood.

Eviction Prevention Framework

A key action in Shelter, Support and Housing Administration's (SSHA) Housing Stability Service Plan is the development of an eviction prevention strategy. Eviction is a critical issue that affects housing stability in Toronto. In the first phase of this project, SSHA developed an Eviction Prevention Framework that outlines a vision, principles and potential actions that will inform the development of a comprehensive and integrated eviction prevention strategy in 2017. Several of the principles in the Framework overlap with the mandate of the TDF including: accessible information and education, access to legal supports and building effective landlord relationships.

The full Eviction Prevention Framework is available at <https://www1.toronto.ca/wps/portal/contentonly?vgnextoid=3c35bbd88be17510VgnVCM10000071d60f89RCRD>

Next Steps

Further work on reviewing the Tenant Defence Fund is necessary to meet all components of the review. These components include: a survey of the impact of AGIs on tenants, a review of the program mandate, an outline of models for tenant outreach and information and an analysis of sector capacity to provide the deliverables. The review is moving

forward as outlined, but will be considered in the broader context of the development of an eviction prevention strategy and other tenant support programs. SSHA will be exercising the first option year on FMTA's contract, extending current services to December 31, 2017, to ensure all services will continue to be offered until the conclusion of the review. Shelter, Support and Housing Administration will report back to the Tenant Issues Committee in spring 2017.

CONTACT

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SIGNATURE

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ATTACHMENT

Attachment 1: Rent Control in Legislation Throughout Canada