



## REPORT FOR INFORMATION

# Supplementary Report - RentSafeTO (Apartment Building Standards): Colour-coded Rating System, By-law Amendments, and Program Updates

**Date:** December 15, 2020

**To:** City Council

**From:** Executive Director, Municipal Licensing and Standards

**Wards:** All

## SUMMARY

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As directed by the Planning and Housing Committee at its December 8, 2020 meeting, this is a supplementary report for Item PH19.6, RentSafeTO (Apartment Building Standards): Colour-coded Rating System, By-law Amendments, and Program Updates. This report responds to directives from the Committee meeting to report to the December 16, 2020 meeting of City Council with available data on RentSafeTO.

## FINANCIAL IMPACT

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There are no financial implications that result from the adoption of this supplemental report. Financial impacts and considerations associated with Item PH19.6 are provided in the November 24, 2020 report from the Executive Director, Municipal Licensing and Standards on RentSafeTO (Apartment Building Standards): Colour-coded Rating System, By-law Amendments, and Program Updates.

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

## DECISION HISTORY

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On December 8, 2020, Planning and Housing Committee adopted, with amendments, Item PH19.6, RentSafeTO (Apartment Building Standards): Colour-coded Rating System, By-law Amendments, and Program Updates. The Committee directed staff to report directly to City Council with available data on the RentSafeTO program. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH19.6>

## COMMENTS

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This report responds to directives from the December 8, 2020 Planning and Housing Committee to report to the December 16, 2020 meeting of City Council with available data on RentSafeTO.

The RentSafeTO program is the first of its kind in Canada and builds on the City's previous Multi-Residential Apartment Buildings program. The objectives of the program are to strengthen enforcement of City by-laws, enhance tenant engagement and access to information, and promote proactive maintenance in apartment buildings to prevent the deterioration of critical housing stock. The program applies to all apartment buildings with 3 or more storeys and 10 or more units; this accounts for 30% of Toronto's residents who live in approximately 3,500 apartment buildings across the city.

The program has a dedicated team of Bylaw Enforcement Officers that proactively conduct evaluations of all buildings at least once every three years, based on a building's evaluation score, as well as audits for buildings that fail their evaluations (that is, those with scores of 50% or below). This team of Bylaw Enforcement Officers also respond to all service requests that the City receives through 3-1-1 related to apartment buildings, as well as in-suite issues that are brought to the team's attention during building audits.

Bylaw Enforcement Officers investigate service requests and have a number of enforcement mechanisms that can be used to bring apartment building owners and operators into compliance. This includes issuing Orders to Comply, Notices of Violation, fines, charges, and the ability to undertake remedial action.

This report provides an overview of the enforcement mechanisms available to the City through the RentSafeTO program and available data, including:

1. Building evaluations and audits
2. Service requests
3. Investigation process
4. Enforcement

Much of the data available in this report can also be accessed by the public on the City of Toronto's Open Data Portal ([toronto.ca/open](https://toronto.ca/open)), including registration information and evaluation scores for apartment buildings, as well as MLS investigation activity for all properties across the city.

### **1. Building evaluations and audits**

All apartment buildings registered under the RentSafeTO program are subject to a building evaluation at least once every three years. The evaluation currently assesses 20 categories, focused on common areas of the interior and exterior of the building, and provides a grade (from 1 to 5) for each. This results in a final evaluation score (from 0% to 100%) that is used to determine next steps, including the next scheduled evaluation,

and whether the building requires an audit. Building scores for each category, as well as the overall evaluation score, of every apartment building are available on Open Data.

Buildings that fail their evaluation (that is, receive a score of 50% or less) are subject to a building audit. An audit differs from a building evaluation and consists of a more comprehensive inspection, additional enforcement action, and an engagement component for tenants to submit service requests for issues in their units. Building owner/operators that receive an audit are also required to pay an administrative fee (\$1,907.74) and audit inspection fee (\$115.31 per hour, per officer).

Table 1 provides an overview of the evaluation scores of buildings based the most recently completed evaluations. The next round of evaluations is currently underway, scheduled to be completed by end of this year. Buildings that fail this round of evaluations will receive their building audit in Q1/Q2 2021.

Table 1: Current distribution of building evaluation score and outcomes

<b>SCORE (%)</b>	<b>OUTCOME</b>	<b># OF BUILDINGS</b>	<b>% OF BUILDINGS</b>
50 or below	Building to receive full audit	30	1%
51 to 65	Building to be evaluated in 1 year	373	11%
66 to 85	Building to be evaluated in 2 years	2,521	73%
86 or above	Building to be evaluated in 3 years	523	15%

MLS currently uses the evaluation scores to prioritize audits of apartment buildings that are more likely to negatively impact quality of life and that have a greater likelihood of deficiencies, as those buildings that fail the evaluation are then subject to an audit. However, staff have received feedback from stakeholders and the public on how to improve the evaluation tool. As a result, staff will be undertaking a review of the criteria and process for evaluations in 2021 with the support of a third party organization and further consultation with tenants and landlords.

More information about the work planned to update the evaluation approach can be found in Item PH19.6 RentSafeTO (Apartment Building Standards): Colour-coded Rating System, By-law Amendments, and Program Updates.

Table 2 provides an overview of the evaluations and audits completed each year since the introduction of the program in 2017. Note that all buildings were evaluated in the first year of the program to establish a baseline, and buildings were scheduled for their next evaluation (in either 1, 2 or 3 years) based on their score. For example, in 2018, staff re-evaluated buildings that received a score between 51% and 65% in the first year, and were scheduled to be re-evaluated in 1 year. Buildings that fail their evaluation each year are then scheduled for a building audit.

Table 2: Evaluations and Audits completed, by year, 2017-2020

<b>ACTION</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020 (to Nov 18)</b>	<b>TOTAL</b>
Evaluations completed	3,421	1,825	1,569	738	7,553
Audits completed	42	42	18	17	119

## 2. Service requests

The RentSafeTO team investigates service requests (complaints) related to apartment buildings that are registered under the program. Table 3 provides an overview of all service requests received through the program since its introduction in July 2017. Note that this includes all service requests received through 3-1-1, as well as through building audits. The data is not able to be separated at this time.

Table 3: Service requests by year and category, 2017-2020

<b>SERVICE REQUEST</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020*</b>	<b>TOTAL</b>
Property Standards	4,391	5,085	5,372	3,747	<b>18,595</b>
Adequate Heat	959	1,039	1,061	599	<b>3,658</b>
Waste	503	578	530	335	<b>1,946</b>
Zoning	131	128	125	291	<b>675</b>
Long Grass and Weeds	51	48	68	22	<b>189</b>
Graffiti	54	53	45	37	<b>189</b>
Fence	24	7	14	7	<b>52</b>
Appliance (Emergency)	4	3	14	21	<b>42</b>
<b>TOTAL</b>	<b>6,117</b>	<b>6,941</b>	<b>7,229</b>	<b>5,059</b>	<b>25,346</b>

\* Non-emergency service requests were not recorded between the end of March and mid-July as a result of the COVID-19 pandemic. MLS has again suspended non-emergency in-suite investigations as of November 27, 2020, although data in this table was only collected up to November 30, 2020.

Since the introduction of the program in 2017, the number of service requests in apartment buildings have generally increased each year (with the exception of 2020, which is not comparable to previous years as non-emergency investigations have been suspended for periods of time during the COVID-19 the pandemic). The increase in service request volumes may be a result of a growing number of Toronto residents becoming more aware of the program, their rights and responsibilities as tenants, and their ability to contact the City when their landlord is not responsive to service requests.

Advertising and communications to build awareness of RentSafeTO have been key components of the program since its introduction.

In total, the RentSafeTO team has received 25,346 service requests between 2017 and 2020, and has closed 24,670 (or 97%) of these. Table 4 provides an overview of all service requests by current status for each year. Note that service requests that are still considered open include those that are in varying stages of enforcement (for example, an Order issued that is pending follow-up, or has been appealed).

Table 4: All Service requests by current status, 2017-2020

<b>STATUS</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020*</b>	<b>TOTAL</b>
Closed	6,114	6,924	7,149	4,483	<b>24,670</b>
Open**	3	17	80	576	<b>676</b>
<b>TOTAL</b>	<b>6,117</b>	<b>6,941</b>	<b>7,229</b>	<b>5,059</b>	<b>25,346</b>

\* Non-emergency service requests were not recorded between the end of March and mid-July as a result of the COVID-19 pandemic. MLS has again suspended non-emergency in-suite investigations as of November 27, 2020, although the data in this table was only collected up to November 30, 2020.

\*\* Service requests that are still considered open include those that are in varying stages of enforcement (for example, an Order issued that is pending follow-up, or has been appealed).

The COVID-19 pandemic has led to many challenges for the enforcement of City bylaws, including the enforcement of the RentSafeTO program. During times of rising infection rates, such as during the months of March - July and from November to present, MLS was unable to investigate non-emergency service requests. Furthermore, MLS Bylaw Enforcement Officers were responsible for enforcing many of the provincial orders and public health protocols, such as social distancing, gathering limits and non-essential business closures.

### 3. Investigation process

Once a service request is received through 3-1-1, it is assigned to staff in the appropriate division. In most cases for apartment buildings, this is a dedicated Bylaw Enforcement Officer for the RentSafeTO program in MLS Investigation Services. The officer then reviews the file and begins the investigation process. Each investigation is unique, but officers will typically follow up with the requestor to gather more information about the request. For example, it may be unclear from the service request what the specific issue is or whether the requestor has submitted their request to their landlord first for a response.

From there, the officer attends the property to determine whether a bylaw infraction exists, and takes the appropriate enforcement action depending on the outcome of the inspection and enforcement tools available under the applicable bylaw (see Section 4).

It is important to note that, given the large number received, service requests are prioritized based on impact to health and safety, into "emergency" and "non-emergency" categories. Emergency service requests related to low/no heat, discontinuation of a vital service, abandoned appliances or hate graffiti are prioritized over non-emergency requests, such as long grass & weeds, zoning, or waste.

The Planning and Housing Committee requested that staff provide average and median initial investigation response time, as well as average and median total investigation time. The initial response time depends on the nature of the service request received. The RentSafeTO team works to meet an initial response time of 24 hours for emergency service requests, identified above, and 5 days for non-emergency service requests. MLS sets target service levels for each of these to measure the division's performance over time. MLS aims to respond to 100% of emergency service requests within the 24 hour standard, and 70% of non-emergency service requests within the 5 day standard. These standards and targets apply to all service requests made for property-related services provided by the Investigation Services team in MLS.

Table 5 provides an overview of the division's performance against these service standards for initial response time since 2017. For example, in 2020, staff responded to 57% of emergency service requests within the 24 hour service standard, and 75% of non-emergency service requests within the 5 day service standard.

Note that this includes service requests received for all bylaws enforced by MLS for all properties. Staff are unable to separately report on initial response times for service requests responded to under the RentSafeTO program as a result of limitations to the case management system used. However, staff will work to find a solution to these limitations for future reporting on the RentSafeTO program.

Table 5: Performance against service standards for all bylaws, 2017-2020

Category	Performance Standard	2017	2018	2019	2020 (to Nov 30)
Emergency	100%	54%	56%	57%	57%
Non-emergency	70%	74%	66%	64%	75%

Once an investigation is opened in response to a service request, the number of days to close the investigation varies considerably, largely due to external variables that may prolong or shorten completion time. Circumstances or intervening variables that prolong completion timelines may include:

- Appeals and other legal proceedings such as statutory appeal rights that must run their course;
- Delays in communicating with the requestor and/or the property owner (for example, incorrect contact information and parties being out-of-town, ill, or otherwise not responding to City communications);
- Nature of the service request and work required to remedy the situation, as some take longer periods of time to achieve compliance; and

- Seasonal and other factors that may impact volume of service requests as well as the ability of contractors to carry out remedial action.

As an example, the minimum timelines for both emergency and non-emergency property standards violations are provided in Figures 1 and 2, below.

### Service Request: Property Standards (Emergency)



Figure 1: Minimum Investigation Process and Timeline for Property Standards Service Requests (Emergency)

### Service Request: Property Standards (Non-emergency)

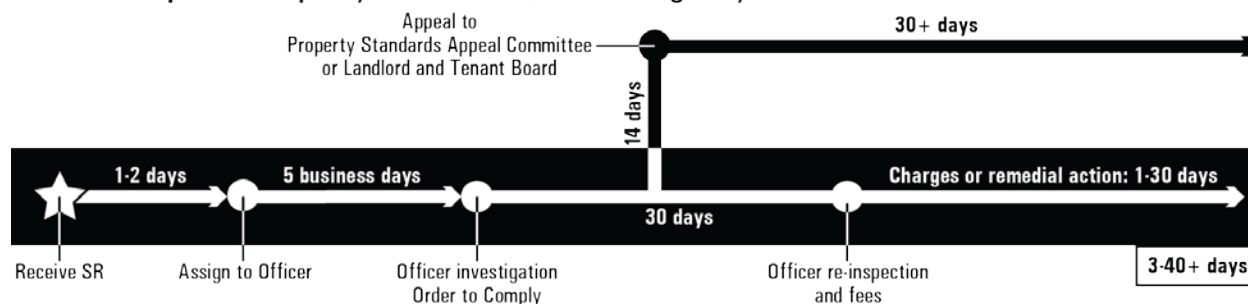


Figure 2: Minimum Investigation Process and Timeline for Property Standards Service Requests (Non-emergency)

Staff also reviewed the average and median number of calendar days for service requests in apartment buildings to be completed (closed). Table 6 provides an overview of the average number of calendar days from the time an investigation is opened and closed for the top five categories of service requests received under the program since its introduction, and Table 7 provides an overview of the median number of days to close an investigation for the same categories. Note that average and median numbers vary significantly as some categories, such as property standards and zoning, can easily be skewed by a minority number of service requests.

While staff can provide details on the amount of time it takes to close an investigation (that is, from the date an investigation is opened), staff are unable to provide details on total investigation time from initial contact as a result of limitations to our case management system.

Table 6: Average number of days to close an investigation, by category, 2017-2020

CATEGORY	2017	2018	2019	2020	AVERAGE 2017-2020
Property Standards	70	65	50	29	55
Adequate Heat	11	14	12	6	11
Waste	37	34	29	21	31
Zoning	70	104	55	10	50
Long Grass and Weeds	34	46	18	16	29

Table 7: Median number of days to close an investigation, by category, 2017-2020

CATEGORY	2017	2018	2019	2020	MEDIAN 2017-2020
Property Standards	35	29	24	12	24
Adequate Heat	4	4	4	3	4
Waste	21	13	11	9	14
Zoning	34	33	15	5	11
Long Grass and Weeds	21	14	9	14	14

The average and median number of days to close an investigation has improved since the introduction of the program for most bylaws enforced by the RentSafeTO team. Staff are able to close investigations in fewer days, on average, despite an increase in volume of service requests received (see Table 3). This may be a result of the creation of a dedicated team of Bylaw Enforcement Officers to focus efforts on ensuring apartment building standards.

#### 4. Enforcement

When staff determine that there is non-compliance with City bylaws, the RentSafeTO team has a number of enforcement mechanisms at their disposal. These include issuing Orders to Comply and Notices of Violation, fees for re-inspection during audits and during follow-up for Orders issued, issuing fines and charges for non-compliance, and undertaking remedial action.

##### Orders to Comply and Notices of Violation

Staff can issue both Orders to Comply and/or Notices of Violation, depending on which bylaw is being contravened. Orders to Comply are issued under Chapter 629, Property Standards and Notices of Violation are issued under Chapter 354, Apartment Buildings



and other relevant by-laws, such as those related to heat, waste, zoning and long grass and weeds. Both of these mechanisms are used to provide details on the violation and a length of time for the violation to be rectified. Staff follow up on these Orders and Notices following the identified compliance date to ensure compliance has been met. Table 8 provides an overview of all Orders and Notices issued through the RentSafeTO program, by category.

Table 8: Total Orders and Notices issued through RentSafeTO, by category, 2017-2020

<b>CATEGORY</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>TOTAL</b>
Property Standards (Order)	831	875	566	335	<b>2,607</b>
Waste (Notice)	107	122	82	31	<b>342</b>
Graffiti (Notice)	20	22	15	13	<b>70</b>
Long Grass (Notice)	9	21	19	5	<b>54</b>
Zoning (Notice)	13	17	15	6	<b>51</b>
Adequate Heat (Notice)	19	17	12	4	<b>52</b>
Fence (Notice)	8	1	1	-	<b>10</b>
Appliance (Notice)	-	-	1	1	<b>2</b>
<b>TOTAL</b>	<b>1,007</b>	<b>1,075</b>	<b>711</b>	<b>395</b>	<b>3,188</b>

Staff were also requested to report on the number of Orders issued as a result of building audit activity. The above table includes Orders and Notices issued as a result of both service requests and building audits. The data is unable to be separated at this time.

### **Fines for non-compliance**

If compliance is not achieved by the compliance date, the City can issue a charge under either Part 1 or Part 3 of the *Provincial Offences Act*.

Part 1 offences, which are often referred to as set fines or tickets, can be issued for non-compliance under a number of bylaws including Chapter 354, Apartment Buildings. A Part 1 offence may be settled out of court by payment of the fine on the offence notice or the recipient may dispute it through the courts. The set fine may not be more than \$1,000. If a Part 1 offence is disputed, the court will determine the amount of the fine, which may be less or more than the set fine, to a maximum of \$1,000. The most common Part 1 offences through the RentSafeTO program are not having the required tenant notification board, and failing to post on the tenant notification board.

A Part 3 offence involves issuing a summons and requires the individual to appear in court. Under the *City of Toronto Act*, the City has the authority to establish the range of fines available including setting higher maximum penalty amounts (for example, no more than \$100,000), establishing a daily penalty for a continuing offence (where the total of all daily fines may exceed \$100,000) and making every director or officer of a corporation liable to a penalty in addition to the corporation. It is the presiding judge's determination of the amount to impose once a person has been convicted of an offence.

Staff can serve a summons for offences under Chapter 354, Apartment Buildings, as well as other bylaws including Chapter 629, Property Standards, in accordance with the procedure in the *Provincial Offences Act*. If an Officer issues an Order to Comply under Chapter 629, Property Standards and the property owner does not comply with the Order by the compliance date identified, further charge can be added for Failure to Comply with the Order. This is the most common Part 3 charge under the RentSafeTO program; staff have issued 155 since the introduction of the program, and fines have ranged from \$200 to \$30,000.

Table 9 provides an overview of fines for both Part 1 and Part 3 offences issued under the RentSafeTO program. Note that in 2020, there was a period of time whereby the courts were closed entirely, and continue to be limited in operation of court proceedings, as a result of the COVID-19 pandemic.

Table 9: Charges Laid for Part 1 and Part 3 offences, 2017-2020

<b>TYPE</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>TOTAL</b>
Part 1 (set fine)	13	114	94	17	<b>238</b>
Part 3 (summons)	36	88	42	49	<b>215</b>
<b>TOTAL</b>	<b>49</b>	<b>202</b>	<b>136</b>	<b>66</b>	<b>453</b>

### **Remedial action**

The focus of the RentSafeTO program is to bring landlords into voluntary compliance, and to use enforcement tools available if compliance is not achieved. If other enforcement mechanisms have been exhausted, such as issuing Orders, Notices and fines, MLS has the authority to undertake remedial action. This involves obtaining a City contractor to undertake the work necessary to remedy a building deficiency, and adding the cost of this work to the property owner's property tax bill. Table 10 provides an overview of the remedial action undertaken through the program since its introduction.

Table 10: Remedial action undertaken, 2017-2020

<b>CATEGORY</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>TOTAL</b>
Property Standards	2	0	4	1	<b>7</b>
Waste	1	0	6	0	<b>6</b>
Graffiti	1	1	0	0	<b>1</b>
<b>TOTAL</b>	<b>4</b>	<b>1</b>	<b>10</b>	<b>1</b>	<b>16</b>

While remedial action is a helpful tool, there are legal limitations to its use. For example, staff must advise the landlord in writing, outlining the deficiency, the intention to undertake remedial action and allow for landlord compliance opportunity. The City also cannot undertake remedial action if a property owner is taking their own measures to remedy the building deficiency (for example, if the owner has a contract in place, the City cannot move forward). If the City does have the ability to move forward, there are also operational limitations as significant staff resources are required to obtain a contractor through corporate procurement processes, and manage the contract from beginning to end.

MLS has reviewed its remedial action processes and issued Requests for Proposals (RFPs) for new contracts to enhance our ability to undertake remedial work. More information on the work underway to improve remedial action processes can be found in Item P19.6 RentSafeTO (Apartment Building Standards): Colour-coded Rating System, By-law Amendments, and Program Updates. However, it is important to note that the purpose of this enforcement tool will remain as a last resort to respond to non-compliance.

## Next Steps

The public can currently access registration information (including building age, number of units, amenities, etc.) and evaluation scores for apartment buildings, as well as MLS investigation activity for all properties across the city. This information is available on the City's Open Data Portal, and the data is refreshed on a regular basis.

Moving forward, staff will review and consider the most appropriate approaches to share program outcomes, which may include data outlined in this report and other sources of data as the program evolves, as part of an annual summary that is accessible by the public.

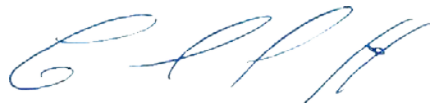
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## SIGNATURE

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