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December 15, 2020

Members, Toronto City Counsel

Re: Council Meeting December 16/17, 2020

Item PH19.6 RentSafeTO (Apartment Buildings Standards: Colour Code Rating System, By-Law Amendments and Program Updates

## **Response to PH19.6 Report for Action RentSafeTO approved at November 24, 2020 Planning and Housing Committee**

The following represents comments and concerns regarding the proposed adoption of the colour-coded rating system under the City of Toronto's RentSafeTO program and highlights a number of issues that can impact implementation of the report's recommendations. As such, it is requested that these issues be given due consideration prior to potential adoption of the report PH19.6 – RentSafeTO (Apartment Building Standards): Colour-Coded Rating System, By-law Amendments, and Program updates

### **GENERAL COMMENTS**

#### **The Proposed Colour-Coded Rating System**

The City of Toronto, Municipal Licensing and Housing through report PH19.6 has identified the following as a framework for a proposed colour-coded rating system for apartment buildings in Toronto. Based upon evaluations completed at each multi-residential building 3 storeys or higher and 10 units or more, it is being proposed in Report PH19.6 that the following classifications, signage and wording be assigned.

- ❖ 86+ - Dark Green – Rated as Good – Common areas met the City of Toronto apartment building standards on the day of the evaluation
- ❖ 66 to 85 – Light Green – Rated as Satisfactory – Common areas met most of the City of Toronto's apartment building standards on the day of the evaluation
- ❖ 51 to 65 – Yellow – Rated as Needs Improvement – Most common areas met the City of Toronto's apartment building standards on the day of the evaluation with some areas of improvement identified
- ❖ 50 and Under – Red – Rated as Unsatisfactory – The common areas did not meet the City of Toronto's apartment building standards on the day of the evaluation and a full building audit will be conducted

#### Issues and Concerns:

- It is unclear from the above proposed colour-coding system and wording, if signage represents an assessment based upon By-Law 354 – Apartment Buildings, By-Law 629 Property Standards or both. Further, when examining both by-laws, there is no clear indication within the by-laws themselves as to what constitutes Good, Satisfactory, Needs Improvement or Unsatisfactory or for that matter what a 1, 2, 3, 4, or 5 on the City’s rating system looks like. This lack of clarity around “what is” and “what is not” covered through the evaluation and how in fact the percentage score is received will no doubt create confusion among residents, the public and landlords/property managers.
- The lack of a “very good/excellent” scoring range appears to under-estimate and misrepresent the quality of some buildings under the RentSafeTO program. For example, as noted in the City of Toronto’s December 2020 Open Data on Apartment Building Evaluations, a total of 15 buildings have scored 99 or 100 on their assessment. Under the current as the 64 buildings that proposed system, these buildings would be rated as GOOD, in the same manner obtained an assessment score of 86 would be identified as GOOD. What is the City’s motivation for not including a “very good or excellent” rating score? From an industry perspective, the lack of recognition of excellence within the system will only serve as a demotivator to the industry to achieve excellence.
- The broad point range for each score category makes it a less than ideal way of representing common area building maintenance status. For example, a building rated at 51 which is just above unsatisfactory, has the same colour coding as a building that scores 65 – a differential of 14 points. Experience indicates that there would be a significant difference in maintenance quality between two buildings representing these scores. Equally a score of 66 which is rated as satisfactory receives the same colour coding as a building that scores 85. For two buildings representing these different scores, we would strongly suggest that maintenance quality would be considerably different. The consequence is that Toronto renters will be falsely misguided by focusing on the visual cue of a colour. This provides residents and the public with a distorted and inaccurate assessment of common area maintenance across apartment buildings in Toronto.

*Rentlogic – Unsubstantiated/Uncorroborated Rating Model*

It should be noted that on Page 8 of report PH19.6 it states that in relation to the proposed approach for the rating system, “These colours are also similar to those used by New York City’s RentLogic system, which has been highlighted by many stakeholders as an international best practice.” Our investigation into Rentlogic calls into question the degree to which Rentlogic is still fully operational/functioning?

In this regard, it should also be noted that Rentlogic is/was a private sector company that provides tech-enabled apartment building grades based on health and safety standards and information obtained from Open Data available from the City of New York’s violations and housing data. According to Yale Fox the founder of Rentlogic, “Although Rentlogic had once explored selling its services to local government as a possible revenue stream, it has since narrowed its business model into something similar to LEED environmental certification: landlords pay monthly fees to display ‘A’ or ‘B’ or even ‘C’ signs in their windows, if they’ve deserved it.” **Mr. Fox goes on to suggest that landlords with higher rated buildings will be able to charge significantly increased rents due to their status rating.**



The Rentlogic private sector certification approach is much different than RentSafeTO which is a government mandated by-law enforcement program, that uses its own staff to assess buildings and compliance with its own by-laws.

Additionally it should be noted that Rentlogic did/does use the same colours recommended in this report, however it uses letters not numerical values on their signage and their classification includes Excellent, Good, Needs Improvement and Unacceptable.

- The RentSafeTO and DineSafe programs are fundamentally very different on their potential impact to the public. With the DineSafe program, the public is not able to eat at an establishment that receives a red FAIL, as this facility is required to close until all relevant issues are addressed, the facility is re-inspected and a conditional or pass grade received.

With the RentSafeTO program, colour-coding signage and rating systems are being applied retroactively, and given the housing market, cost, work, dislocation and effort required to move to another building, because an existing building has been rated as red – unsatisfactory, is just not feasible. Further, given the limited availability of some rental housing, individuals may be required to move into a building regardless of its rating because it is the only accommodation available in their price range.

- Under the DineSafeTO program all eating and drinking establishments in the City of Toronto receive a minimum of one, two, or three inspections *each year* depending on the specific type of establishment, the food preparation processes, volume, type of food served and other related criteria. Conversely, under the RentSafeTO program, the RentSafeTO team are supposed to conduct inspections at every apartment building at least once every *three years*, based on scoring.

Report PH19.6 proposes that the colour-coded rating system and signage posted be based upon the last evaluation completed at the building. Given that the last completed evaluation can be over 3 years old, it is very questionable as to the accuracy and appropriateness of the colour-coded signage. Under this current system, signage would not reflect changes in status, upgrades or conversely deterioration that has occurred over this potentially significant time period.

For example, according to December 2020 Open Data on Apartment Building Evaluations, out of the 30 buildings that scored 50 or less on the building evaluation, 10 buildings showed the last evaluation date was over 18 months ago, 1 building appeared not to have been evaluated in over 2 years, 3 buildings had an evaluation data of about 1 year, and just under half of all buildings had no last evaluation date noted at all. Yet, in all cases under the proposed system, a red sign would be posted at all these buildings.

Up to date, consistent and accurate evaluation results must form the foundation of any data driven system.

- As many have noted, posting of colour-coded signage will cause stigmatization, shame and feelings of embarrassment among tenants who live in a building that have been rated unsatisfactory or needs improvement. Our limited research has concluded that the City's recommended colour-coding system is considered by some to be racist in nature. The associated



stigmatization will not only be felt by adults, but by the children who live in these buildings. This colour-coded signage could also become a source of bullying and negative self-image for children who do not have a choice to live elsewhere.

**Summary/Recommendation:**

The RentSafeTO program and now the proposed additional creation of a colour-coded building rating system, in part, is predicated on the belief that a punitive based system needs to be implemented to ensure “landlords” comply with standards and maintain their buildings. It appears to be based on a belief that government action and intervention is needed to ensure well maintained rental housing. Since RentSafeTO began, it is very difficult to identify the degree to which changes in scores are not a result of the subjective nature of the evaluation process. RentSafeTO itself admits to resulting evaluation inconsistencies. However, it would still appear that a more focused and targeted approach to address issues at buildings might have greater benefit than a broad-based approach that appears to taint all buildings, landlords and property managers with the brush of needing government oversight in order to operate effectively.

Rather than implement a colour-coded rating system and signage that stigmatizes tenants and their children and that can be considered discriminatory in nature, efforts should be focused on working with and where necessary penalizing buildings that continue to flaunt property standards and by-laws and that present an “unsatisfactory” building environment for tenants and others who attend at the building. A thorough data analysis of actual problem buildings should be completed and should form the basis for further investigations and actions, rather than continuing to perpetuate the view that all “landlords” require the City to tell them how to run their buildings and businesses.

Ultimately, we would recommend that RentSafeTO be refocused to build a more collaborative approach between all stakeholders, rather than continuing to build discord between landlords, and tenants in Toronto. FRPO welcomes the opportunity to engage the City in ongoing discussions on this issue, and/or finding ways for having a more cooperative approach to working on issues that impact both tenants and landlords alike in Toronto.

Sincerely,



Tony Irwin  
President & CEO

