

Supplementary Report - A New Regulatory Framework for Multi-tenant Houses

Date: July 13, 2021

To: City Council

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

As directed by the Planning and Housing Committee at its June 28, 2021 meeting, this is a supplementary report for item PH25.10 A New Regulatory Framework for Multi-tenant Houses.

This report responds to directives from the Committee meeting, including reporting on:

- Opportunities to advance hiring of Municipal Licensing and Standards (MLS) Bylaw Enforcement Officers in Year 1 of implementation of the new regulatory framework;
- Additional resources that are needed for 311 and parking enforcement; and
- How the licensing approach can limit oversea investors/operators and corporations and ensure that housing prices do not become even more unaffordable for families.

In addition, Committee directed staff to consult further with the Sorority and Fraternity Association of Toronto to canvass their views and further review issues of concern. Staff met with the association on July 8, 2021, and the outcomes of the consultation are outlined in this report.

FINANCIAL IMPACT

There are no financial implications beyond what has already been noted in PH25.10 'A New Regulatory Framework for Multi-tenant Houses' report submitted to Planning and Housing Committee on June 28, 2021.

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

DECISION HISTORY

On June 28, 2021, the Planning and Housing Committee considered the report PH25.10 A New Regulatory Framework for Multi-tenant Houses, with amendments. The Committee directed the Executive Director, Municipal Licensing and Standards to consult further with the Sorority and Fraternity Association of Toronto to canvass their views and further review issues of concern. In addition, the Committee directed staff to report back directly to City Council on opportunities to advance hiring of MLS Bylaw Enforcement Officers; additional resources for 311 and parking enforcement; and how the licensing approach can limit overseas investors and operators.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH25.10>

COMMENTS

Advancing Hiring of Municipal Licensing and Standards (MLS) Officers

MLS has explored opportunities to advance the hiring of MLS Bylaw Enforcement Officers in Year 1 of implementation of the new regulatory framework. Using existing and anticipated vacancies, the Division believes it can accommodate the hiring of an additional ten Bylaw Enforcement Officers in 2021 on a temporary basis, along with the necessary administration and management. Then, once the new positions are approved through the 2022 budget process, the positions would be made permanent. MLS anticipates hiring an additional 12 Bylaw Enforcement Officers later in 2022.

In summary, the phased approach would be adding to the current complement of six Bylaw Enforcement Officers by hiring an additional ten in 2021; then hiring an additional 12 in 2022 - which would bring the total number to 28 Bylaw Enforcement Officers.

The recruitment and training process for Bylaw Enforcement Officers includes advertising the positions, onboarding new staff, facilitating a comprehensive three-week-long in-class training session, followed by in-field coaching. Typically, this process occurs once a year, where a cohort of Bylaw Enforcement Officers are hired and trained, and then assigned to their teams. The entire process can take approximately 4 to 6 months and is a complex process involving MLS staff and management, People & Equity (HR), and external facilitators.

The team of six Bylaw Enforcement Officers have been in place since 2020, and are dedicated to the enforcement of multi-tenant housing and will continue to be focused on the multi-tenant housing by-law implementation.

Additional Resources for 311

311 responds to general inquiry interactions, and initiates service requests from the public for identified sections within select integrated service divisions, including MLS.

For MLS, 311 currently receives customer complaints related to multi-tenant houses using two service request types, Property Standards and Zoning, to report issues to MLS for investigation.

In 2020, MLS received 600 service requests from 311 related to multi-tenant housing. 311 staff note that the Average Handle Time for these calls is approximately ten minutes; and these calls take much longer to manage, in comparison to the majority of calls handled by 311, which are approximately four and a half minutes in duration.

Generally, the majority of the complaints that MLS receives directly and through 311 are related to zoning issues. MLS receives an average of 1,400 complaints annually related to multi-tenant houses, of which 62 percent are related specifically to zoning.

MLS anticipates that should the zoning permissions be expanded, there will be a decline in the number of complaints related to zoning. While there may be an increase in other types of complaints, it may not result in an increased number of complaints overall, due to the expected decline in zoning complaints.

At this time, 311 recommends a review of the call volumes and complaints received following a six month period after the launch of the new processes to determine potential impacts. If it is determined that the volume of calls received is considerably higher than anticipated, a review of resourcing would be considered at that time.

Additional Resources for Parking Enforcement

Transportation Services (TS), Toronto Police Services (TPS), and MLS share the responsibility of enforcing parking regulations and standards throughout the city.

On-street or boulevard parking regulations are enforced by the Parking Enforcement Units of the TPS and TS respectively. Both the TPS and TS have reported that, historically, multi-tenant house properties do not generate a significant amount of parking-related infractions when compared to any other land uses. While it is difficult to predict how many additional parking complaints may be generated by the proposed regulatory framework for multi-tenant housing, the proposed changes to the multi-tenant housing by-laws are not expected to have a significant impact on the non-compliance of either.

Both TS and TPS have indicated that current enforcement staffing levels would be sufficient to accommodate any potential future enforcement actions should they become necessary. Should the number of parking complaints increase significantly, requests for additional resources would be made as needed.

MLS is responsible for enforcing parking zoning standards on the property of the multi-tenant house (e.g. on the driveway). These parking standards are enforced by the dedicated team of MLS Bylaw Enforcement Officers. As noted previously, MLS is recommending hiring an additional 22 Bylaw Enforcement Officers, in addition to the six officers currently on the team, in order to manage enforcement of the proposed by-laws, including the parking standards that are within the purview of MLS. It is projected that the total number of Bylaw Enforcement Officers will suffice to enforce the parking standards.

Licensing Approach to Overseas Investors and Operators

Limiting overseas individuals from being involved the operation of multi-tenant houses would require a citizenship test which would be problematic under both the Ontario Human Rights Code and the Canadian Charter of Rights and Freedoms.

Under the Ontario Human Rights Code, discrimination on the basis of place of origin is prohibited, and under the Canadian Charter of Rights and Freedoms, discrimination on the basis of national or ethnic origin is prohibited.

Corporations are not protected under the Ontario Human Rights Code or the Canadian Charter of Rights and Freedoms. It would be possible to require that every corporate applicant/licensee have a registered business address in Ontario similar to the requirement in Chapter 547, Short-Term Rentals and Chapter 546, Vehicles-for-Hire. This was done, for the companies brokering the reservations, to facilitate the City's dealings with the company, including serving them with potential legal processes.

This requirement would not be able to ensure that those controlling the corporation are based in Ontario/Canada as this would require a citizenship test, which, as set out above, is problematic.

MLS also notes that the licensing standards are designed to be applied to all operators, regardless of whether they are overseas operators or based in Canada.

Fraternities and Sororities under the New Regulatory Framework

2018 Direction from City Council

In 2018, City Council amended Chapter 285, Rooming Houses ([Agenda Item History - 2018.LS25.2](#)), so that a registered student fraternity or sorority house is no longer exempt from the by-law and may be required to be licensed as a rooming house where they otherwise met the definition of a rooming house.

City Council clarified but did not remove the exemption for cooperative student residences, which is defined in the proposed licensing by-law as co-operative student residences owned or leased by a non-profit, non-share corporation and providing housing accommodation on a co-operative basis.

Definition of Fraternities and Sororities under New Framework

The new proposed licensing definition of multi-tenant houses, as recommended to Planning & Housing Committee on June 28, 2021, has different parts to it which capture different living arrangements. The first part of the definition captures a house that, among other requirements, does not function as a single-housekeeping unit.

Another part of the definition of multi-tenant houses includes fraternities and sororities, defining those as follows:

A student fraternity or sorority house with four or more bedrooms, inhabited or intended to be inhabited by students who are members of an active chapter of a bona fide national or international student fraternity or sorority.

For the purposes of this definition of a student fraternity or sorority house, a “bedroom” is a room that:

- (a) Is used or intended to be used as a bedroom; and
- (b) May include a bathroom or kitchen facilities for the exclusive use of the room's occupant but does not include both.

If fraternities and sororities are not expressly included in the definition, the new licensing by-law may not apply to them (e.g. if they function as a single-housekeeping unit) - as they would have to meet another part of the definition for a multi-tenant house for the regulations to apply.

In the case that an expressly stated definition of fraternities and sororities is not included, Council direction to remove the exemption and include fraternities and sororities in the licensing by-law would not be fulfilled.

As such, staff have recommended that fraternities and sororities which meet the above proposed definition be required to obtain a multi-tenant house licence from the City – regardless of whether they are operating as a single-housekeeping unit or meet another part of the definition for a multi-tenant house.

Licensing Fraternities and Sororities

In addition to better aligning with Council direction from 2018, the recommendation to license fraternities and sororities also achieves a municipal purpose of providing the City with the additional ability to improve compliance with City by-laws, and other applicable law such as the Fire Code and Building Code. Inclusion of fraternities and sorority houses in the framework will allow the City to:

- Help address third-party impacts in neighbourhoods, improve living conditions for residents, and get operators to better understand City by-laws through the public awareness plan for operators.
- Apply the additional enforcement tools and resources such as annual inspections, a dedicated MLS team, increased number of Fire inspectors, enhanced fines, modernized tribunal, and remedial action to fraternities and sororities' houses.
- Require fraternities and sororities to comply with additional health and safety standards, including electrical evaluation requirements and property maintenance plans that also include standards for waste management.

Licensing fraternities and sororities is intended to further enable regulatory oversight and effective enforcement to ensure the health, safety and well-being of persons living both in and nearby fraternities and sororities, and limit issues that have arisen through complaints about fraternities and sororities (see section on Complaints Related to Fraternities and Sororities).

Authority to Licence

Under subsection 8(3) of the City of Toronto Act, 2006, the City has the authority to regulate or prohibit respecting a matter, require persons to do things respecting a matter and provide for a system of system of licences respecting a matter, such as licensing fraternities and sororities.

This is in addition to the City's more specific authority to license businesses under sections 85 to 96 of the Act. Under subsection 86(5), this specific authority to license businesses applies to any system of licences the City chooses to introduce.

As such, under the City of Toronto Act, 2006, the City has the authority to license fraternities and sororities, in the manner proposed.

Complaints Related to Fraternities and Sororities

There is a concentration of fraternity and sorority houses in the area which was formerly Ward 20, Trinity-Spadina. The fraternity and sorority houses are often located in converted large, detached homes located off campus on city streets amongst other residential homes.

Fraternity and sorority houses serve to provide student accommodations and are used for student events and activities. Concerns have been raised by neighbours about these properties relating to issues of noise and property maintenance, garbage, and behaviour.

Staff identified 19 fraternity and sorority houses that are located in the area that was formerly Ward 20, Trinity-Spadina, and reviewed complaint data on these properties for the six years from 2016 to June 2021. The City received complaints related to all of the 19 fraternity and sorority houses. An average of 38 complaints were received in each of the six years, amounting to a total 229 complaints.

The most common types of complaints were about:

- Waste (42 complaints);
- Noise (82 complaints); and
- Property standards complaints (20 complaints).

Of the resulting investigations, 27 have led to the issuance of orders to comply.

While the numbers of complaints are not significantly high, there is an opportunity under the new by-law to further bolster compliance and enforcement of the issues that have arisen through complaints.

Consultations

The Sorority and Fraternity Association of Toronto (SoFra) have participated in the following consultations with City staff:

- City staff met with SoFra on May 7, 2021 as part of the stakeholder consultations on the new multi-tenant housing regulatory framework.
- SoFra members also advised that they had attended consultation meetings for the general public.
- Fraternity and sorority members also submitted over 65 written communications about the proposed multi-tenant house framework to the Planning and Housing Committee in advance of the June 28, 2021 meeting.
- As directed by Planning and Housing Committee, city staff also conducted a follow-up meeting with SoFra, which was held on July 8, 2021.

SoFra Feedback

Through the meetings and deputations/communications to Planning & Housing Committee, SoFra provided the following feedback, which is noted below along with City staff responses:

- *SoFra Feedback:* SoFra representatives believe that their houses should not be considered a rooming house/multi-tenant house; and questioned why they would be regulated by a licensing by-law while other forms of student housing were not.

Response: City staff note that other types of student housing that are exempt either have oversight by universities and colleges; have historically lower numbers of complaints than fraternities and sororities; or were not removed as an exemption by City Council.

- *SoFra Feedback:* From a licensing perspective, SoFra suggests that if neighbours have issues with SoFra houses (e.g., noise, waste disposal, weeds, etc.), they can call 311 and MLS can take enforcement action as appropriate under other existing by-laws.

Response: As noted on page 5, City staff note that licensing under the new regulatory framework for multi-tenant houses provides the City with an additional ability and tools to improve compliance in multi-tenant houses.

- *SoFra Feedback:* SoFra representatives suggest that each of the houses have membership with each member having the choice to live in these houses; their houses are not all rental properties; and each organization may be structured differently.

Response: While City staff would have to consider each case in its own context, City staff note that the City has authority to license fraternities and sororities as set out above.

- *SoFra Feedback:* From a zoning perspective, the houses are well-established. SoFra's should be brought under any new zoning regulations.

Response: Under the proposed zoning, a fraternity or sorority house may exist under permissions for either a dwelling unit in one of the permitted residential building types, or as a multi-tenant house. The applicable definition would depend on

whether the fraternity/sorority house operates as a single house-keeping unit. The existing fraternity/sorority houses were established prior to city-wide Zoning By-law 569-2013 and many or all may be legally non-conforming under the zoning permissions that were in force at the time they were established, in the event that they do not comply with existing or proposed zoning.

- *SoFra Feedback:* SoFra representatives suggest that requiring their houses to be licensed could result in hundreds of SoFra members forced out of their residences and becoming homeless which can exacerbate the homelessness crisis.

Response: The City's goal with licensing fraternities and sororities is achieving compliance with applicable law, not shutting such properties down. City staff will generally seek to work collaboratively with operators to bring them into the new licensing regulatory framework.

SoFra also noted that if the City is proposing to include SoFra houses under the new framework, SoFra intends to challenge that decision.

Other Stakeholder Feedback

Feedback was also received from the Federation of North Toronto Residents Association after the June 28, 2021 Planning and Housing Committee meeting, expressing concern that the City was considering changing its position on the classification of fraternities and sororities and/or cause a delay for further consultation for a decision.

Other Options Considered

As an alternative approach, in 2018, staff recommended that the following actions could be taken in relation to fraternities and sororities:

Fraternity and sorority houses would be exempt from the multi-tenant housing licensing by-law, but have to submit an application before September 1st of each year to be eligible for that exemption. This application would contain:

- Confirmation of active membership in an international or national fraternity or sorority;
- Confirmation of accommodation for more than three students who are members of the active chapter; and
- Contact information for the national or international student fraternity or sorority, and the local chapter.

If a fraternity or sorority house did not apply for an exemption or their application was rejected, the City would take enforcement action with respect to the property in the same manner as it would for any other suspected unlicensed multi-tenant house.

In addition, it was recommended that MLS would undertake, in consultation with representatives of fraternities and sororities and area residents, proactive outreach and education sessions for operators and students on issues of health and safety, noise, and property maintenance.

Next Steps

The new licensing by-law, as currently proposed, recommends licensing fraternities and sororities. This supplementary report also describes an alternative approach considered by Council in 2018. It is within the purview of City Council to provide alternative direction on the preferred approaches going forward if Council sees fit.

CONTACT

Ginny Adey, Director, Policy and Strategic Support, Municipal Licensing and Standards Division, Tel: 416-338-5576, Email: Ginny.Adey@toronto.ca

Negin Shamshiri, Manager, Policy and Strategic Support, Municipal Licensing and Standards Division, Tel: 416-338-3478, Email: Negin.Shamshiri@toronto.ca

SIGNATURE

Carleton Grant
Executive Director
Municipal Licensing and Standards Division