

Auditor General Report - Supplementary Report - City Solicitor

Date: February 14, 2022

To: Audit Committee

From: City Solicitor

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

The attachment to this report contains advice or communications that are subject to solicitor-client privilege and litigation privilege.

SUMMARY

This report is supplementary to Item AU11.3, Revisiting Legacy Rental Replacement Policies to Align them with the City's Affordable Rental Housing Expectations.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council direct that Confidential Attachment 1 remain confidential, as it contains advice or communications that are subject to solicitor-client and litigation privilege.

FINANCIAL IMPACT

The financial implications for this matter are set out in Item AU11.3.

COMMENTS

Section 111 of the City of Toronto Act, 2006 gives the City the enhanced ability to protect rental housing from demolition or conversion to non-residential uses, such as to condominium or office uses. More specifically, Section 111 allows municipalities to pass a by-law to implement the enhanced powers set out in the provision. The by-law may: 1) prohibit the demolition of residential rental properties without a permit; 2) prohibit the conversion of residential rental properties to a purpose other than the purpose of a residential rental property without a permit; and 3) impose conditions as a requirement of obtaining a permit. Section 111 applies when there are six or more dwelling units, and where at least one is rental.

Chapter 667 of the Toronto Municipal Code is the City's by-law enacted pursuant to Section 111, which prohibits the demolition or conversion of residential rental properties to a purpose other than rental housing without a permit. Chapter 667 may still apply where there is no independent planning application, such as for major internal renovation that changes the number or type of units by number of bedrooms.

Chapter 667 also allows for the imposition of conditions as a requirement of obtaining a permit. These conditions may include relocation assistance for displaced tenants, prevention against harassment of tenants and replacement of rental housing, with tenants having the right to return to their units at the similar rent as before. These conditions are secured through Section 111 Agreements, which are registered on title and can be imposed against the owner or subsequent owners of the property.

The Auditor General's report identified a number of issues including:

- An expectation gap between City Council's priorities to provide access to more affordable housing opportunities to lower-income households and actual Section 111 and Municipal Code Chapter 667 requirements;
- Lack of detail on how replacement units would be provided through a fair, open and transparent process; and
- Limited requirements to ensure that owners maintain records and comply with the agreements.

Confidential legal advice is set out in Confidential Attachment 1 with respect to this matter.

CONTACT

Amanda S. Hill, Solicitor, Legal Services Division, Telephone: 416-338-5790, Email: amanda.hill@toronto.ca

Jason Davidson, Solicitor, Legal Services Division, Telephone: 416-392-4835, Email: jason.davidson@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Legal Advice