

RentSafeTO Update Report

Date: March 11, 2022

To: Planning and Housing Committee

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

At its meeting on January 12, 2022, the Planning and Housing Committee (PHC) adopted PH30.12 - RentSafeTO and directed Municipal Licensing and Standards (MLS) to report back on requests made by committee in December 2020 (PH19.6) and October 2021 (MM36.13).

RentSafeTO is a registration, audit and enforcement program enabled by *Toronto Municipal Code* Chapter 354, Apartment Buildings. 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 objectives of the program are to strengthen enforcement of City bylaws, enhance tenant engagement and access to information, and promote proactive maintenance in apartment buildings to prevent the deterioration of critical housing stock. The program is supported by a dedicated team of 35 staff, including management, support staff, an engagement lead and Bylaw Enforcement Officers (BEOs). In 2022, City Council approved 7 additional staff positions to support the expansion of RentSafeTO, Multi-Tenant Housing and Noise ByLaw enforcement.

This report provides an update of the work completed in 2021. This includes the communication of bylaw changes; launch of the interactive webpage which allows current and prospective tenants and landlords to view and download building-specific RentSafeTO reports and evaluation scores; and engagement and outreach initiatives to improve program awareness, open feedback channels and keep people informed. This increased transparency on the quality of apartment buildings across Toronto will enable residents to find a safe and well-maintained home.

On November 26, 2019, City Council directed staff to create a rating system similar to the City's "Dinesafe" program that requires landlords to post a colour-coded sign that displays the building ratings in prominent areas. In December 2020, staff responded to that directive with a proposal that included the requested colour-coded signage. On December 16, 2020, City Council directed staff (PH19.6) to instead undertake a review of the current process and criteria used to evaluate buildings registered under the

RentSafeTO program to develop a revised evaluation tool without a colour-coded signage element.

The current evaluation tool is a system supported by technology solutions and operational processes that enable BEOs to evaluate the common areas of buildings in the program and identify buildings that need to be audited. Staff procured a third party expert (Rentlogic) to assist with the development of the evaluation framework and provide advisory services for a new evaluation tool. After a comprehensive stakeholder engagement process, staff anticipate that the redesigned evaluation framework and recommendations for a new tool will be publicly available for feedback in Q2 2022. In order to address directive PH 19.6 (9a) that requires the evaluation of in-suite criteria and PH 19.6 (9c) to be responsive to ongoing violations and orders, the new evaluation tool will incorporate data from a variety of data sources. Including additional data will help satisfy Council directives and address stakeholder feedback. This will also result in an improvement from the current evaluation tool as today it only reflects point in time data collected by BEOs. Other areas being explored include whether category weightings result in improvements to the tool.

MLS has also published the 2021 RentSafeTO Year in Review, a snapshot of the work that has taken place since the RentSafeTO program began in 2017. It delivers key performance data, including building evaluations and audits, service requests, investigations and enforcement actions. The report is available online and will be updated annually.

Lastly, this report provides updates on outstanding directives from the October 2021 City Council meeting (MM36.13). MLS has made improvements to customer experience in relation to pest control within the RentSafeTO program. Recommendations identified during the audit completed by the Internal Audit Division have all been implemented, including training for BEOs on pest control, introducing a new process to issue a letter to non-responsive complainants of timelines for when a service request will be closed, and staff communication to underscore the importance of documentation in the division's current technology system (IBMS). Furthermore, a review of the entry powers for BEOs show that existing authorities are consistent with the entry authority provided in other municipal bylaws and provincial legislation. If the City was to request the Provincial government to pursue a provincial amendment enabling BEOs the right to enter a dwelling without the tenant's consent, it is unlikely that this type of entry will be authorized for situations where there is no urgent life/safety concern.

This report does not recommend bylaw changes, and was prepared in consultation with Legal Services and Internal Audit Division.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. The Planning and Housing Committee receive this report for information.

FINANCIAL IMPACT

There are no financial implications that result from the adoption of this staff report, or beyond what has already been approved in the current year's budget.

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

EQUITY IMPACT

Access to good quality and safe housing is an important determinant of health and improves the social and economic status of an individual. Nearly half of Toronto residents are renters, and that number continues to grow. Apartment buildings make up a large part of the City's rental stock, and over 500,000 Torontonians live in high-rise apartment towers that are more than 35 years old and face risks identified by the City of Toronto's Resilience Strategy. Many families, newcomers, seniors, and vulnerable individuals reside in apartment buildings. According to the City's Resilience Strategy, approximately 40% of families living in apartment buildings are low income

The RentSafeTO program seeks to positively impact lower-income and vulnerable individuals and families by ensuring apartment building owners comply with building maintenance standards, thereby improving living conditions within apartment buildings. The program has the potential to increase the opportunity for lower-income and vulnerable individuals and families to access safe, healthy, and adequate housing.

DECISION HISTORY

On October 1 and 4, 2021, City Council adopted Item MM36.13, Fixing Service Gaps in RentSafeTO, which directed MLS to report back on the status of initiatives Council requested to address service gaps in RentSafeTO.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM36.13>

On March 2, 2021, the Planning and Housing Committee adopted Item PH21.12, RentSafeTO, which directed MLS to outline their approach to the new system Council approved in December 2020 for RentSafeTO. The Committee also requested an examination of the performance data of the RentSafeTO Program to determine whether any additional operational procedures or other measures are required during RentSafeTO Bylaw Enforcement Officers investigations of service requests and building audits.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH21.12>

On December 16, 17 and 18, 2020, City Council adopted Item PH19.6, RentSafeTO (Apartment Building Standards): Colour-coded Rating System, By-law Amendments, and Program Updates, which approved a number of amendments to *Toronto Municipal Code* Chapter 354, Apartment Buildings and Chapter 442, Fees and Changes

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH19.6>

On November 27, 2019, City Council adopted Item PH10.4, Amendments to Chapter 354, Apartment Buildings, and Progress Update on RentSafeTO, which directed MLS to create a colour-coded rating system for apartment buildings and to evaluate the feasibility of expanding the criteria for building evaluations, requiring apartment building owners/operators to provide information about RentSafeTO when issuing N2 forms, and requiring apartment building owners/operators and/or tenants to obtain insurance that covers the costs of accommodations in cases where an apartment building becomes uninhabitable. Staff were also directed to report back on service standards, remedial action, administrative penalties, and increased set fines.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH10.4>

COMMENTS

The Comments section of this report is organized as follows:

1. Introduction
2. Background
3. Summary of work completed in 2021
4. Summary of outstanding directives related to PH19.6
5. Summary of outstanding directives related to MM36.13

1. Introduction

The RentSafeTO program is the first of its kind in Canada and builds on the City's previous Multi-Residential Apartment Buildings program. 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 objectives of the program are to strengthen enforcement of City bylaws, enhance tenant engagement and access to information, and promote proactive maintenance in apartment buildings to prevent the deterioration of critical housing stock.

The program has a dedicated team of Bylaw Enforcement Officers (BEOs) that proactively conduct evaluations of all apartment buildings in the program at least once every three years. This results in a final building evaluation score (from 0 to 100%) that is used to determine the next scheduled evaluation and whether the building requires an audit. This team of BEOs also respond to service requests received through 3-1-1 for in-suite and common area property standards issues within apartment buildings that are part of the program.

2. Background

At the December 2020 meeting (PH19.6), City Council adopted a total of 13 directives. Below is a summary of the major changes:

- bylaw amendments regarding waste management, capital plans, and requiring email addresses for building owners;

- requiring owners and operators to inform all current and prospective tenants of the rating of their apartment buildings and the evaluation used to create the rating;
- introducing a fee for the mid-term evaluation of an apartment building;
- undertaking a review of the current process and criteria used to evaluate buildings by developing a new tool, and making information publicly available on the enforcement process associated with the new evaluation tool;
- enabling a downloadable building-specific RentSafeTO reports with available data; and;
- providing year in review with available data on RentSafeTO.

As directed by Council at its November 2019 meeting, staff also introduced a proposed colour-coded rating system similar to the DineSafe program for eating establishments administered by Toronto Public Health at the December 2020 meeting. The proposed rating system was informed by extensive public and stakeholder engagement, including a mock-up system that was presented and discussed at public open house meetings and a public survey. Under the proposed model, four colours (red, yellow, light green and green) were assigned to the existing building evaluation score categories which determined whether an audit was required and when the next scheduled building evaluation would take place. Council did not adopt the proposed colour-coded rating system.

Since the 2020 Council decision, staff have undertaken significant work in 2021 to redesign the evaluation tool and process, in consultation with stakeholders and tenant groups. This work, expected to be ready for public feedback this spring, does not account for a colour-coded rating system. At this time, there would be substantial complications and costly delays in the development of the evaluation tool if staff were asked to reconsider the colour-coded rating system. With the introduction of a score that is more dynamic and responsive (as a result of including more frequently updated data) the reliance on colour-coded physical signage in/on buildings is no longer expected to be a practical option. The preferred way to share the current evaluation score for a building will be using RentSafeTO's public facing web pages. This will ensure tenants and stakeholders have access to the current score.

3. Summary of work completed in 2021

Throughout 2021 MLS undertook significant work to implement the program changes outlined above. Staff worked with Strategic Communications to communicate bylaw changes through mail and email to landlords and key stakeholder groups, updated the Building Owners Handbook to reflect the new requirements for building owners/operators, and communicated the changes on the RentSafeTO webpage and the City's social media channels.

Staff also developed a user-friendly, interactive webpage where current and prospective tenants, landlords and the public can view information on the registered apartment buildings and their evaluation scores. The interactive webpage, launched on October 4th, 2021, improves access to information and allows users to download building-specific RentSafeTO reports. While MLS already requires building owners and operators to post building evaluation scores on the building's Tenant Notification Board, the interactive webpage provides digital means for tenants and prospective tenants to

gain better access to comprehensive evaluation information of any building. Overall, this increased transparency on the quality of apartment buildings across Toronto will enable residents to find a safe and well-maintained home.

With the support of the dedicated Stakeholder Engagement Lead, the RentSafeTO team worked on improving program awareness, opening feedback channels and keeping people informed. The team held more than 100 stakeholder and community events from April to December 2021 to ensure tenants were aware of the program and knew the appropriate steps to take to resolve an issue with their apartment building. The RentSafeTO public education campaign, launched in Fall 2021, achieved more than 20 million views and led to 88,000 visits to the RentSafeTO webpage during the month long campaign period.

During the COVID-19 pandemic, MLS directed its resources to support the enforcement of public health measures, including the enforcement of enhanced health and safety measures in apartment buildings across Toronto to protect tenants and help slow the spread of COVID-19. Staff worked with both landlords and tenants to provide education and ensure compliance with these new provisions.

4. Summary of outstanding directives related to PH19.6

A. Evaluation Framework and Tool

Following Council directive #9 (PH19.6), MLS undertook a review of the current process and criteria used to evaluate buildings by developing a revised evaluation tool, in consultation with stakeholders and tenant groups. Staff were directed to explore the addition of new building evaluation categories for in-suite property standards requirements and outstanding enforcement activities; options to revise the weighting of evaluation categories to prioritize issues that have a greater impact on tenants; and to develop a process to ensure evaluation scores are responsive to ongoing violations and orders between scheduled evaluations/audits. Staff were also directed to report back, if needed, on any potential resourcing or fee impacts as a result of these changes (directive #10).

The existing building evaluation tool, which has been in place since the program was introduced in 2017, assesses a building against 20 criteria related to the cleanliness and maintenance of common areas of both the interior and exterior of the building. The assessment is based on a five-point Likert scale (i.e. a grade from 1-5). This results in a final evaluation score that is used to provide a high-level assessment of the condition of the building and to determine next steps, including determining whether the building receives a full building audit as well as the next scheduled building evaluation date.

Staff are working to improve the criteria for building evaluations. This work is being completed in three stages: designing the evaluation framework and tool; partnering with Technology Services Division (TSD) to build the tool; and operationalizing the tool for application in the field. This work aims to ensure that the evaluation tool is more responsive to ongoing building conditions to ensure greater compliance with bylaw requirements.

This report is focused on the design process for the evaluation framework and tool, discussing the work completed and considerations that staff continue to explore as they work towards improving the evaluation tool.

Stage One: Designing the evaluation framework and tool

The design process will be completed in four phases with stakeholder engagement sessions planned at each phase.

Phase One (Completed): Project launch and issue identification

To assist with the design of the evaluation framework and tool, a third party expert (Rentlogic) was hired in August 2021, through the City's competitive procurement process. Staff have created a comprehensive stakeholder engagement plan forming stakeholder working groups from across the City, to ensure that feedback from stakeholders are incorporated in the design process. This included working groups for:

- Building Owner and Operators;
- Social Housing Providers;
- Bylaw Enforcement Officers;
- Tenant Advisory Committee;
- Tenants and Tenant Advocates; and
- Other City partners/Subject Matter Experts.

Phase one engagement sessions were held from October 4-15th, 2022 and 34 participants in total were engaged in six discussion groups. The engagement sessions focused on what aspects of the building evaluation tool works well, what needs to be improved, and general comments on how the evaluation tool can be modified to promote proactive maintenance in apartment buildings to prevent the deterioration of critical housing stock. Overall, stakeholders were in agreement that staff should expand and better define the categories in building evaluations (e.g., addition of Tenant Notification Board category), assign different weighting for categories, and increase the threshold for audits.

Phase Two (Completed): Development of evaluation framework and tool

A draft evaluation framework and tool was developed with a preliminary list of evaluation categories and considerations for the weighting method. The proposed evaluation framework and tool uses an approach that provides buildings an overall score based on a combination of "proactive" data, which includes the scoring of specific categories during a building evaluation, as well as "reactive" data, which includes confirmed Property Standards Orders and Notices of Violation investigated by BEOs. Using both proactive and reactive data will create a more dynamic and meaningful evaluation score. Further, the draft framework has additional elements including: new evaluation categories; different weighting that prioritizes issues that have a greater impact on tenants; and new thresholds to determine which buildings get audits.

In December 2021, staff shared the draft evaluation framework on the redesigned tool with working group members. In response to the 53 questions received from stakeholders, MLS prepared and shared a comprehensive question and answer

document. Working group members also offered their feedback at engagement sessions held from February 25th to March 8th, 2022 and 28 participants in total were engaged in the discussions. Overall, stakeholders were generally supportive of the draft evaluation framework, with stronger support among tenants/tenant advocates and housing advocates. Apartment building owners/operators were generally less supportive of the draft evaluation framework. All feedback will be reviewed and where technically and operationally feasible, concerns will be addressed.

As the evaluation framework and tool is still under development, the considerations listed above may be revised to reflect the needs and resources of the program, and further input from the ongoing engagement process.

Phase Three (In progress): Testing of evaluation framework and tool

The proposed changes identified in the evaluation framework need to be tested to understand the impact on individual building scores and service standards. Supporting documentation, business processes, and data structures are also under development. Engagement #3 will focus on sharing test findings with working group members for their feedback. Working group members will have opportunities to ask questions and propose additional changes to the evaluation framework to ensure that the redesigned evaluation tool is achieving its intended outcomes. Staff anticipate this work to be completed in Q2 2022.

Phase Four (Pending): Final design recommendations

Final outcomes of the design stage will include proposed updates to the building evaluation framework and tool, feedback from working group members during the design process, and recommendations and next steps for the RentSafeTO program. Staff anticipate this work to be completed by Q2 2022.

Engagement #4 will focus on wrapping up the project, including next steps in terms of implementation planning, education and outreach. Then, to ensure public feedback is incorporated in the design process, two public town hall consultation sessions (one virtual and one in-person session depending on public health restrictions) are planned for Q2 2022. The consultations will provide opportunities for the public to learn about the RentSafeTO program, understand program changes along with their impacts, and provide feedback on the evaluation framework and tool to improve program outcomes.

Stage Two: Partnering with Technology Services Division to build the tool

During this stage, staff are working with Technology Services Division (TSD) to build the final redesigned evaluation tool. This includes the development of the algorithm that governs data inputs and calculations for the evaluation tool and integration with the existing IBMS software. The newly developed technology will undergo testing with stakeholders to ensure that it is performing adequately prior to its use in the field. Staff anticipate this work to be completed by Q3 2022 and for the evaluation tool to be used in the 2022/2023 building evaluations schedule.

Stage Three: Operationalizing the tool for application in the field

During this stage, staff are reviewing and updating training materials and standard operating procedures so that BEOs understand how to use the new evaluation tool, communicate any bylaw changes and new requirements to RentSafeTO registered building owners/operators and make ongoing improvements to the RentSafeTO website. Staff will also undertake a public education and awareness campaign to educate residents about the new evaluation tool and what it means for tenants living in buildings registered under the RentSafeTO program. Staff anticipate this work to begin in Q3 2022 and aligned as much as possible with the 2022/2023 building evaluations schedule.

B. 2021 RentSafeTO Year in Review

Following Council directive #14 (PH19.6), MLS developed and published the 2021 RentSafeTO Year in Review (Year in Review). It provides a snapshot of the work that has taken place since the RentSafeTO program was introduced in 2017 to keep more than 3,500 rental buildings across Toronto safer and cleaner for residents. The Year in Review provides program data on building evaluations and audits, service requests, investigation and performance metrics and enforcement actions.

In 2021, RentSafeTO staff completed 1,149 building evaluations with an average building evaluation score of 77.6 per cent. Staff also received 10,099 service requests (complaints), a 39% increase compared to the previous high of 7,229 service requests received in 2019. As RentSafeTO continues to increase its tenant outreach, it is anticipated that the volume of service requests will remain high as residents become 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.

Despite the significant increase in service requests received as well as the unique challenges faced during the pandemic, the total investigation time has improved since the introduction of the program for most bylaws enforced by the RentSafeTO team. The largest decrease in closure time was in property standards files, which were closed an average of 44% faster than in 2020. The number of days to respond to and close an investigation varies considerably, largely due to external factors. The City has also focused on recruitment for RentSafeTO, ensuring that in 2021, the program was operating 33 full-time staff, compared to 27 in 2020. This helped manage a record number of service requests, and improve efficiency and service delivery.

In 2021, MLS issued a total of 656 Orders to Comply and Notices of Violation, and submitted 76 charges to the courts. The most common charge under the RentSafeTO program is the Failure to Comply with a Property Standards Order; staff have issued about 180 charges for Failure to Comply with a Property Standards Orders since the introduction of the program, and fines have ranged from \$200 to \$30,000. Voluntary compliance and the use of escalating enforcement practices continue to be the goals for the RentSafeTO program.

More detailed analysis and program updates are included in the full report (Appendix 1) and infographic (Appendix 2). The report is available to the public on the RentSafeTO webpage and was shared electronically with key stakeholders.

To promote the launch of the Year in Review, MLS developed communications for stakeholders including infographics that highlight trends for 2017-2021 for each of the division's service levels (e.g., service requests by category and response time for investigations). MLS also developed a social media campaign that will be shared through various channels. The Year in Review will improve communication and transparency with the public, making it easier for residents and building owners/operators to find information and make informed choices.

There were also several outreach and communication initiatives conducted in 2021, including communications to launch the program's Year in Review with available data, per Council directive #14 (PH19.6); and ongoing improvements of the RentSafeTO website to share information on various aspects of the operational process, as per Council directive #12 (PH19.6).

5. Summary of outstanding directives related to MM36.13

A. Improvements to customer experience in relation to pest control

In March 2021, as part of Council directive #1 and #2 (MM36.13), Internal Audit Division completed an audit of how the RentSafeTO program manages and resolves customer complaints, precisely around pest complaints. This audit was prompted by a complaint from a resident who was experiencing repeated pest infestations in their apartment. The audit examined the investigation and validation methods employed by RentSafeTO staff prior to closing a complaint; communication of closed complaints and post-closure follow-up performed with customers; and enforcement strategies used to promote compliance.

The audit concluded that both MLS and the building property management involved took the matter seriously, and applied all efforts to rectify the situation. The audit identified three recommendations to help MLS better serve its customers in the future. Since the audit, MLS worked with City Divisions (e.g., the Shelter Support and Housing Administration) with experience in pest control to develop internal guidelines. These internal guidelines were communicated to staff to ensure that the information was well understood among BEOs. MLS made changes to its complaint process to improve customer experience. Beginning in October 2021, non-responsive complainants are notified via a letter that outlines timelines for when the service request will be closed. MLS also provided communication to staff to underscore the importance of documentation in IBMS so that all pertinent evidence is accessible for future inquiries. MLS is continuing to work with TSD to modernize the information technology system that supports RentSafeTO as part of an ongoing division-wide transformation initiative.

B. Extended entry powers for Bylaw Enforcement Officers

As part of Council directive #3 (MM36.13), MLS was directed to review municipal and provincial legislation related to entry powers for BEOs.

Under Chapter 354 and the applicable provincial legislation, BEOs are provided entry powers. For example, a BEO may enter the common areas of an apartment building

within the City at any reasonable time for the purpose of carrying out inspections to determine whether landlords are in compliance with City bylaws and/or issue a Notices of Violation/Order to Comply. To enter a private dwelling a BEO must receive the consent of the resident, which in the case of Chapter 354 would be the tenant and not the landlord giving consent to enter the rental unit. If consent is refused, the City can seek a warrant for entry from a court if necessary. The role of the court in overseeing entry into dwellings without consent ensures that there is important oversight in these situations. These authorities are consistent with the entry authority provided in other municipal by-laws and provincial legislation. Staff do not recommend seeking a broader entry power that would enable entry into an occupied rental unit where a tenant does not consent to the entry.

As noted, there are means to gain entry that already exist and provide for a legal process that protects the rights of tenants in their homes. Provincial legislation typically authorizes entry into a dwelling without consent from the occupant only in emergency situations, like a fire safety risk. Even if a provincial amendment enabled BEOs the right to enter a dwelling without the tenant's consent, the Province is unlikely to authorize the use of this type of entry without an urgent, life/safety situation.

It is important to note that in most circumstances, if there are issues within a rental unit that need to be addressed, the tenant will consent to BEOs accessing their rental unit. It is a rare occurrence that a tenant's decision to deny entry into the rental unit directly interferes with the City's ability to address non-compliance of a landlord under the RentSafeTO program.

Next Steps

Given the considerable changes to the redesigned evaluation tool, MLS will be taking a measured approach to implementing the new technology to align as much as possible with the 2022/2023 building evaluations schedule. This would allow staff to assess, monitor, and evaluate the redesigned tool and process to determine if it's achieving its intended goals. It will also provide opportunities for staff to amend the tool and process to further enhance performance and effectiveness. Furthermore, a measured approach will ensure that there is a seamless and coordinated transition to the new technology. City staff will work with BEOs to providing training, awareness and education to best enable accountability, openness and trust with the new technology.

It is important to note that these timelines are subject to the complexity of the final evaluation tool that is determined and the amount of time required for the technology development and testing. Timelines also need to align with MLS' technology transformation initiative to modernize the core information technology system that supports RentSafeTO.

Lastly, the new evaluation process and changes to the program may require additional staffing resources in 2023 to adequately deliver the RentSafeTO program. Staff will monitor service levels (e.g., number of audits) and other administrative processes to determine whether additional resources for implementation will be requested through the 2023 budget process.

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ATTACHMENTS

Appendix 1: 2021 RentSafeTO Year in Review
Appendix 2: 2021 RentSafeTO Year in Review Infographic