

## **PH16.4 - Implementing a Rental Renovation Licence Bylaw to Address Renovictions**

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**Flaws in the design and implementation of this bylaw will result in predatory landlords continuing to issue N13 notices and illegally renovicting tenants because it does not include a plan to identify or penalize landlords who don't apply for a renovation licence, or to ensure that renovation licence applications that include falsified documents are not approved.**

The reason renoviction has become a problem is because landlords have discovered that they can exploit a legal loophole in the Residential Tenancies Act to evict their tenants in bad faith “to do renovations or repairs” so that they can increase their profits by either illegally re-renting the unit at a higher rent, or illegally selling the vacant property for a higher price. These are landlords who intentionally break the law because they know that doing so will net them huge profits, without much risk of being penalized.

The point of **all** existing municipal renovictions bylaws is to deter these predatory landlords from pursuing renovation as a way to increase their profits, by making it difficult for them to break the law and get away with it and by eliminating the financial incentive that they have to pursue renoviction to increase their profits.

Thanks to a few key problems with the design of the bylaw and the administration and enforcement of the licence requirements, this proposed bylaw puts significant resources into ensuring that harms caused by law-abiding landlords who need to do renovations are mitigated, while doing nothing to deter law-breaking landlords from pursuing renovictions to increase their profits. To be effective in deterring predatory landlords from pursuing renoviction these fairly simple problems must be fixed.

### **Problem #1:**

**There is no plan to identify landlords who issue an N13 notice, and do not apply for a renovation licence.**

The most important problem is that the City's proposal is simply to enforce the bylaw requirements when a landlord applies for a renovation licence, ignoring the fact that predatory landlords will simply continue their current illegal practices with impunity—ignoring the City's bylaw and continuing to issue N13 notices without ever applying for a licence—unless the City makes it impossible for them to do so. The City could easily go after landlords who ignore the bylaw, however to do that they must be told when N13s are issued and then investigate when a landlord who has issued an N13 does not apply for a renovation licence, and there is no plan to do this. Without a plan to identify landlords who ignore the City's bylaw and either force them to comply or penalize them for non-compliance, landlords will get the message that they can simply ignore the City's bylaw and nothing will change.

### **Solution:**

- 1. Educate tenants about the bylaw and tell them that if they receive an N13 they need to notify the City so that the bylaw can be enforced.**
- 2. Create a staff position that is tasked with operating a “tenant hotline”, where tenant reports of receiving N13s are received and acted upon.**
- 3. Create staff investigation and enforcement positions tasked with investigating landlords who issued N13s and did not apply for a renovation licence within 7 days.**
- 4. Make “not applying for a licence within 7 days of issuing an N13 notice” an offence under the bylaw.**
- 5. Enforce compliance by either having landlords apply for a licence or be severely penalized.**

## **Tenant Education**

There is no plan here to educate tenants about the law and the need to report N13s to the City. While Toronto Buildings is planning “clear, understandable and multi-lingual public-facing guidelines for landlords to support compliance”, there is no recognition that information delivered to tenants after a landlord has applied for a renovation licence does absolutely nothing to prevent predatory landlords from skirting the bylaw and continuing to illegally renovate tenants.

The City of Hamilton recognized that key to their bylaw’s effectiveness in stopping predatory renovation was tenant education and support: unless tenants know to call the City when they receive an N13 notice, the City will have no way of knowing that a landlord who has issued an N13 notice is not complying with the bylaw requirements to obtain a building permit and apply for a renovation licence. Hamilton included in their plan to implement their bylaw a very strong and comprehensive tenant education component.

Every tenant in Toronto needs to know that if they receive an N13, they must report it to the City so that the City can ensure the landlord is required to comply with the bylaw.

## **City of Toronto Hotline**

There needs to be someone at the City who is tasked with receiving and acting on these reports from tenants, which is also not included in the plan.

Two staff people are needed to operate a tenant hotline that tenants call not only to report having received an N13, but also landlord non-compliance with tenant compensation and relocation requirements and trouble with moving back in. These staff would document the calls and pass information to investigators and enforcement officers for follow up. The hotline operator must also be able to field questions and refer tenants to legal clinics and other agencies for additional support. There is no hotline planned, just staff people who will respond to general inquiries along with other responsibilities.

## **Problem #2: Inadequate Investigation and Enforcement plan**

For a bylaw to be effective in stopping predatory landlords from pursuing renovation, predatory landlords need to believe that using N13s in bad faith to get their tenants to move out is not a good business strategy, because breaking the law will cost them more than they would gain from being able to increase rents. This will only happen if the City sends a strong message that there will be severe financial repercussions for every landlord who issues an N13 and doesn’t comply with the bylaw. To help send this message, the City needs to be explicit in what it considers an offence, it needs to be clear about how it will enforce the bylaw and how landlords will be penalized.

### **Solution:**

- 1. Make failure to apply for a renovation licence within 7 days of issuing an N13 notice an offence under the bylaw that has a strong penalty attached.**
- 2. Make failure to allow a tenant to move back into their unit following renovations or repairs an offence under the bylaw that has a strong penalty attached.**
- 3. Include in the renovation licence approval process, a check of the credibility of the report from the qualified professional.**
- 4. Before any renovation licence application is approved, require that tenants confirm that they did indeed sign the declaration and/or consent to the tenant relocation and assistance plan to ensure that applications that include falsified materials are not approved.**

Investigators and by-law enforcement officers are needed to investigate landlords who don’t apply for a renovation licence after issuing an N13 notice and either get the landlord to comply or levy a significant penalty, however there is no plan to do this and failing to apply for a renovation licence is not deemed an offence under the bylaw, even though attempting to skirt the bylaw altogether should be considered the most serious offence.

Landlords who do not apply for a renovation licence that includes a legitimate building permit and a credible letter from a qualified professional after issuing their tenant an N13 notice should be penalized heavily. If every tenant informs the City when they’ve received an N13 notice and a strong penalty is

enforced persistently and consistently, it will stop many, if not all, landlords from issuing spurious N13s. However this offence is not explicitly included in the bylaw and the staff report suggests this should be punishable by a ticket of \$1000. A \$1000 ticket will not be an effective deterrent to keep a predatory landlord from continuing to issue tenants N13s and ignoring the City's bylaw.

There also needs to be a penalty for failing to allow a tenant to move back into their rental unit. Landlords need a time limit for completing renovations and should have to pay the tenant compensation for failing to let them move back in that is the equivalent of the additional profit the landlord would realize from re-renting the unit at a higher rent for 5 years. This offence is not included in the bylaw.

Investigators and enforcement officers are also needed to review licence applications and in particular, they must check the credibility of the report from the qualified professional, and not just check to see that a report is included in the application. This is something that Toronto Buildings is uniquely qualified to do. If they don't actually check the credibility of the report, it is unclear why a staff person from Toronto Buildings is suited to this position at all.

Before any application is approved, the staff person must confirm with tenants that the tenants did indeed sign the declaration saying they do or do not wish to return to the unit once repairs are complete and that they consent to the tenant relocation and assistance plans to ensure that the landlord didn't simply forge their tenants' signature. These critically important checks do not appear to be part of the plan.

### **Problem #3: Inappropriate resourcing**

The staffing proposed—8 people to answer “general inquiries” and review and approve applications, and six Building Inspectors to do investigations— does not reflect the work that needs to be done.

The City anticipates receiving 160 renovation licences, which is a little more than one every other work day. If the bylaw is an effective deterrent, this number will likely be even lower. It is unclear why the staff report recommends a team of 8 people to review one and a half applications a day. The staff report also recommends 6 Building Inspectors to do investigations, who I don't believe have the powers of bylaw enforcement officers, although I could be wrong. If they don't have bylaw enforcement powers, it's unclear what they would be investigating.

Effective enforcement is essential if this bylaw is to have any effect. This is a bylaw that should be targeting people who intentionally break the law to increase profits, and so there needs to be considerable focus on dealing with people who engage in criminal behaviour, where a “voluntary compliance approach” isn't going to work. In particular, the City must hire the people who are able to and who will enforce this bylaw and levy the penalties that are necessary to deter predatory landlords from misusing N13 notices to evict tenants and increase their profits.

I would suggest that the funding for half of the proposed staff positions would be better used to increase the number of lawyers available to support tenants through the N13 process at the LTB. Because once a landlord serves a tenant an N13 and files an L2 at the LTB, the provincial eviction process steamrolls ahead, regardless of what the City is doing. There are also many other methods that predatory landlords pursue to evict tenants that don't involve issuing an N13 notice, and if this bylaw is successful in discouraging landlords from pursuing N13s to evict tenants, landlords won't just stop trying to evict tenants, they will pursue alternate methods to evict tenants that don't involve issuing an N13 notice. Notably, the staff positions the City of Hamilton added to support the bylaw specifically included additional solicitors who would be available to support tenants at eviction hearings at the Landlord and Tenant Board where a tenant is trying to make the case that their N13 was given in bad faith because the landlord does not require vacant possession. There is no question that tenants will continue to need support at the LTB to fight evictions in spite of this bylaw, and so they will need lawyers, not a team of 8 building staff taking a full day to review a single renovation application.

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