

## **Response to Including New Approval Conditions for Rental Demolition Applications**

**Date:** March 15, 2024

**To:** Planning and Housing Committee

**From:** Interim Chief Planner and Executive Director, City Planning

**Wards:** All

### **SUMMARY**

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This report responds to City Council's request for the Chief Planner and Executive Director, City Planning and City Solicitor to review components of the City's implementation approach and approval conditions for Rental Housing Demolition applications submitted under Chapter 667 of the Toronto Municipal Code ("Chapter 667").

The report addresses the following rental replacement implementation matters:

- Requiring additional purpose-built market rent units as a condition of approval for Rental Housing Demolition applications;
- Feasibility of using secondary market (i.e., condominium) rental data to inform how financial compensation is calculated as part of Tenant Relocation and Assistance Plans for eligible tenants; and
- Providing income-eligible post-application tenants the option to rent available replacement affordable rental units prior to eligible individuals who are on the Centralized Affordable Rental Housing Access System.

Staff are not recommending changes in response to the above implementation matters as such changes could unintentionally negatively impact the City's existing rental replacement policy framework. The report identifies recent process improvements, such as indexing rental market data, to ensure compensation provided under the Tenant Relocation and Assistance Plan better reflects current market data. Staff will also be publishing updated implementation practices for Rental Housing Demolition applications that will provide for a plain language resource for members of the public and the development industry to reference.

Legal Services and the Housing Secretariat were consulted in the development of this report.

## RECOMMENDATIONS

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The Interim Chief Planner and Executive Director, City Planning recommends that:

1. City Council request the Chief Planner and Executive Director, City Planning make available on the City of Toronto website updated implementation practices for Rental Housing Demolition and Conversion applications.
2. City Council request the Chief Planner and Executive Director, City Planning to implement indexing of average market rent for vacant units when calculating rent gap assistance and secure such indexing in Section 111 agreements.
3. City Council reiterate previous requests to the Province of Ontario to protect existing renters and rental stock by:
  - a. maintaining the City's ability to require rental replacement, including any associated conditions, as part of any rental demolition project; and
  - b. re-introducing rent control to cover units occupied after November 15, 2018.

## FINANCIAL IMPACT

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City Planning confirms that there are no financial implications resulting from the recommendations included within this report in the current budget year or future budget years.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the information as presented in the Financial Impact Section.

## DECISION HISTORY

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On October 11, 2023, City Council adopted MM11.16 - Rental Demolition Permits and Market Rentals. The motion directed staff to report to Planning and Housing Committee in Q1 2024 with recommendations on whether the City can require additional purpose-built market rental units as a condition of approval for rental housing demolition applications, and to explore the feasibility of using secondary market rental data to inform the financial compensation secured through the City's Tenant Relocation and Assistance Plan.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.MM11.16>

On November 8, 2023, City Council adopted Item EX9.3 - Generational Transformation of Toronto's Housing System to Urgently Build More Affordable Homes. This report outlined several recommendations and initiatives to transform and strengthen Toronto's housing system and expedite delivery of HousingTO and Housing Action Plan targets. The item was amended through Motion 28 to direct staff to report on the feasibility of

requiring 10% net-new purpose-built rental units, 8% gross floor area, or cash-in-lieu as a condition of approval for rental demolition applications for buildings with more than 100 units.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.EX9.3>

On December 13, 2023, City Council adopted PH8.16 - Amendments to Toronto Municipal Code Chapter 667: Rental Demolition and Conversion By-law. The report stated staff would bring forward a report in Q1 2024 in response to [MM11.16](#) related to a review of rental replacement implementation practices. The item was amended to direct staff to also report back on the feasibility of providing income-eligible post-application tenants the option to rent available replacement affordable rental units before tenants are selected from the Centralized Affordable Rental Housing Access System.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH8.16>

## COMMENTS

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### Rental Replacement Policy Framework

Section 111 of the City of Toronto Act, 2006 provides City Council with the authority to regulate the demolition and conversion of residential rental properties in Toronto. Chapter 667 of the Toronto Municipal Code, the Residential Rental Property Demolition and Conversion Control By-law, implements the authority under Section 111 and prohibits the demolition or conversion of residential rental units in buildings containing six or more residential units, of which at least one is rental, without obtaining a permit from the City.

Chapter 667 helps to implement Official Plan policies on the demolition and conversion of existing rental housing with affordable and mid-range rents. Official Plan policy 3.2.1.6.b) requires that at least the same number, size and type of rental housing are replaced and maintained with rents similar to those in effect at the time the redevelopment application was submitted. Further, 3.2.1.6.c) requires the provision of an acceptable tenant relocation and assistance plan addressing the right to return to occupy one of the replacement units at similar rents, the provision of alternative accommodation at similar rents, and other assistance to lessen hardship.

### Consultation Summary

City Planning staff undertook consultation with various stakeholders in consideration of the Council motion, including Building Industry and Land Development Association (BILD) and tenant advocacy groups. Key feedback from the Tenant Advisory Committee regarding the tenant relocation and assistance plan, and No Demovictions (an advocacy group of tenants impacted by rental replacement applications) is provided below:

- Need for more detailed and publicly available information on the City's rental demolition policies and rental replacement implementation practices.

- Opportunities for the Official Plan housing policies to be strengthened to better respond to the scale of rental demolition applications and level of displacement.
- Rental replacement materials and documents should be translated into multiple languages.
- Evaluation of the policy framework, including surveying tenants who have returned to replacement rental housing and highlighting success stories, should be undertaken by a neutral third-party.
- City Planning should undertake a consultation process with past tenants to understand their experiences with the rental replacement process, and to closely monitor and track the number of tenants that return to replacement housing.

Housing Secretariat staff were also engaged on the potential of prioritizing post-application tenants for the centralized rental housing access system.

### **Requiring Additional Purpose-built Rental Units**

Through [MM11.16](#) and [EX9.3](#), City Council directed staff to explore whether new purpose-built rental units could be required as a condition of approval of large-scale (e.g. 100+ units) rental demolition applications.

### **Current Rental Housing Replacement Approach**

[Chapter 667](#) allows City Council, or the Chief Planner through delegated approval, to require conditions of approval of a Rental Housing Demolition application. Conditions for Rental Housing Demolition and Conversion applications for private rental buildings are based on the provisions outlined in [Official Plan policy 3.2.1.6](#), and consistently applied on a city-wide basis. Official Plan policy 3.2.1.6 is provided in Attachment 1 to this report.

Under Chapter 667, City Council can impose conditions relating to:

- the requirement to replace the existing rental housing;
- the provision of tenant assistance (including the right to return to replacement housing at similar rents); and
- and the requirement to develop and implement an access plan.

In some cases where the existing rental units are comprised of house-form buildings or are very large in size, Council has accepted the replacement of smaller unit sizes and secured additional net-new replacement rental units at affordable rents with the remaining residential rental square footage. In limited instances, applicants have agreed to secure the entire building as purpose-built rental where replacement rental units are scattered throughout the building. However, applicants are typically unwilling to secure the tenure of the entire building at the time of the Rental Housing Demolition application and instead locate the replacement rental units in a set area of the building.

## **Securing New Affordable Rental Housing**

The City's central focus when securing new purpose-built rental housing is to ensure that affordability and/or rent control provisions are included as part of the approval. New affordable rental units can be secured as an in-kind Community Benefits Charge contribution, through section 453.1 of the City of Toronto Act, or as part of an affordable housing program. New rent controlled purpose-built rental units may also be secured as part of a Community Infrastructure and Housing Accelerator (CIHA) order. The City has yet to request a CIHA order.

## **Recommendation and Response to Motions**

Staff have reviewed the feasibility of requiring additional purpose-built rental units as a condition of approval for rental housing demolition applications, and do not recommend this approach.

The primary objective of Chapter 667 and Official Plan policy 3.2.1.6. is the preservation of existing rental housing and lessening the hardship on impacted tenants. The Official Plan encourages the production of new market rental housing as an important component of the City's housing stock; however, it is not related to the purpose of Chapter 667 and rental replacement policies. Further analysis regarding requiring additional rental housing as a condition of a Rental Housing Demolition permit is contained in the supplementary report from the City Solicitor.

## **Use of Secondary Rental Market Data in Tenant Relocation and Assistance Plans**

Through [MM11.16](#), City Council directed staff to explore the feasibility of using secondary market rental data to inform the financial compensation secured through the tenant relocation and assistance plan for eligible tenants.

## **Tenant Relocation and Assistance Plan Overview**

Chapter 667 and Official Plan housing policies require an acceptable tenant relocation and assistance plan to lessen hardship experienced by tenants impacted by redevelopment. The tenant relocation and assistance plan is above and beyond compensation required by the provincial *Residential Tenancies Act, 2006*, and assists tenants to move from their current housing to interim accommodation while the replacement rental housing is built. The City's requirements for tenant relocation and assistance plans have evolved over the years based on feedback from tenants and in response to changing rental housing market conditions.

City Planning's standard practice secures the following key elements as part of the tenant relocation and assistance plan:

- Longer notice periods for tenants to move out, enabling tenants to have at least 6 months to look for suitable interim housing;
- Compensation to assist with moving out of existing housing and back to a replacement unit;

- Rent gap assistance to bridge the gap during the construction period between a tenants' current rent and market rents in the local area;
- Special needs assistance for tenants with physical or mental health conditions and/or who are seniors; and
- Leasing support to help tenants find interim accommodation.

Information on the tenant relocation and assistance plan is communicated to tenants throughout the development application review process, in the form of written notices and as part of a tenant meeting. All costs associated with the implementation of the plan are borne by the applicant.

### **Existing Approach for Calculating Rent Gap Assistance**

Rent gap assistance is a key component of the tenant relocation and assistance plan. This financial compensation provides financial support to assist eligible tenants in transitioning to market rents during the displacement period. Rent gap assistance is calculated as the difference between the rent paid by a tenant on the date their tenancy is terminated and the most recent average rent for vacant private rental apartments by unit type in the Rental Market Survey, published annually by Canada Mortgage and Housing Corporation (“CMHC”). The rent gap is provided as a lump sum payment at the time a tenant moves out of their unit and is calculated to cover the entire displacement period.

The core principle of rent gap assistance is to help tenants to continue to live in similar rental accommodation in their existing neighbourhood. Since rental units subject to Official Plan rental replacement policies are predominantly located in purpose-built rental buildings, City Planning uses CMHC data for asking rents of purpose-built rental apartment units to calculate the rent gap.

### **Secondary Rental Market Data**

CMHC collects and publishes data on the secondary (i.e., condominium) rental market to report trends for rental units that are not captured by the Rental Market Survey. The collection of secondary rental market information reported on as part of a subset of the Rental Market Survey, through the Condominium Apartment Survey. Survey data is available through the CMHC's Housing Market Information Portal and downloadable from its website.

The results of the Condominium Apartment Survey are reported by Condo Sub Area, which are generally consistent with the four districts of the City of Toronto. In contrast, purpose-built rental apartment data is reported by individual zone, which are smaller geographic areas. For example, data reported for Condo Sub Area 1 (Former City of Toronto, York, and East York) is the average of six Rental Apartment Zones (Zone 1: Toronto Central, Zone 2: Toronto East, Zone 3: Toronto North, Zone 4: Toronto West, Zone 8: York, and Zone 9: East York). The use of individual zone-level data has been raised as an important consideration at tenant meetings held by City Planning as it represents more accurate and specific data findings for the local area. Zone-level

condominium rental unit data can be requested from CMHC, however data is not always available or may be suppressed for some unit types.

The Condominium Apartment Survey does not differentiate between vacant and occupied rental units when reporting average rent data. The use of vacant apartment rents is essential to the calculation of rent gap assistance as it reports asking rents or what rents units are currently being offered at.

Secondary rental market data is also available through private research sources such as Urbanation, Toronto Regional Real Estate Board and Realtor.ca, among others. This data is not collected in a transparent or open process and can require a membership and fee to review. To provide tenants with transparent, consistent and reliable information, staff rely on publicly available data collected and published by a public organization with a detailed methodology.

### **Recommendation and Response to Motion**

Staff do not recommend solely using secondary rental market data to inform rent gap assistance. Tenants have the choice to determine what type of rental unit they move to during the displacement period and are provided with extended notice and the use of a leasing agent to assist with finding interim housing. It is unlikely that all impacted tenants would move into condominium rental units during the displacement period.

Condominium units do not typically represent a similar condition to existing purpose-built rental units that impacted tenants live in. Condominium rental units typically include additional services and facilities such as ensuite laundry and amenities that are not representative of the rental housing proposed for demolition, which results in higher rents. Tenants may choose to move to housing with more amenities, however the rent gap is to ensure tenants can afford to stay in similar housing, not necessarily a higher-end form of housing.

In response to [PH4.9](#) – Closing the Gap in Our Rent Gap Compensation and feedback from tenants, staff have developed an indexing approach and begun indexing the CMHC vacant private apartment rent to account for changes in market rents between the date the Rental Market Survey was conducted and the date tenants are required to move out of their rental unit. Indexing provisions will apply to all new rental housing demolition applications moving forward.

There is concern from tenants that condominium rental units are the only rental units available in the rental market for impacted tenants to move to during the displacement period. In the most recent Rental Market Survey, CMHC reported 270,981 private apartment units in the City of Toronto rental market universe. In the same year, CMHC reported 142,584 condominium rental units in the City of Toronto. There is evidence of more available purpose-built rental units than condominium rental units. For the past five years, the Rental Market Survey has reported lower vacancy rates for condominium rental units than purpose-built rental units. For example, the most recent Rental Market Survey reports a 0.7% vacancy rate for condominium rental apartments, compared to 1.4% for purpose-built rental apartments.

Staff will continue to monitor rental market conditions, including the availability of purpose-built rental units across the city and by CMHC Zone, and review how rent gap assistance is calculated.

### **Right to Return for Income-Eligible Post-Application Tenants**

Through [PH8.16](#), City Council directed staff to explore the feasibility of providing income-eligible post-application tenants the option to rent available replacement affordable rental units before tenants are selected from the City's Centralized Affordable Rental Housing Access System ("CARHAS").

### **Existing Approach for Post-Application Tenants**

Post-application tenants are households who moved into a rental unit proposed for demolition after a Rental Housing Demolition application was submitted to the City and were informed of the owner's intent to redevelop the site through a City-approved lease addendum prior to signing a lease agreement for their rental unit. The lease addendum is provided to owners when the Rental Housing Demolition application is deemed complete by City Planning. In many cases, post-application tenants secure lower rents as the housing will not be provided long-term.

Through the City's standard approach, post-application tenants are not provided the right to return to a replacement rental unit. These tenants receive compensation required under the *Residential Tenancies Act, 2006*, an extended notice period to move out, and special needs financial compensation. The rental units occupied by post-application tenant households are replaced in the new building, secured at the applicable rent category, and offered to new tenant households through a fair and transparent process, including the use of CARHAS once it has launched.

### **Recommendation and Response to Motion**

Staff have reviewed and consulted on the identified implementation change for post-application tenants, and do not recommend providing income-eligible post-application tenants with the option to rent available affordable rental replacement units before tenants are selected from CARHAS.

Post-application tenants are notified of the proposed redevelopment through the City-approved lease addendum when they sign a lease agreement for their rental unit. By signing the lease addendum, the tenant acknowledges and agrees that they are not eligible for the benefits included in the Tenant Relocation and Assistance Plan, other than what is required under the *Residential Tenancies Act, 2006*. Information and resources regarding the development application are outlined in the lease addendum for the tenant to review. City Planning is committed to working with partners to review and update the standard documentation for Rental Housing Demolition applications, including the post-application tenant lease addendum, for improved clarity.

In December 2023, City Council directed staff to offer and select tenants for affordable replacement rental units without returning tenants through CARHAS, and Subsection



667-15(A) of Chapter 667 was amended to reflect this requirement. This direction was in response to the [Auditor General recommendations](#) that included strengthening requirements for offering affordable rental replacement units through fair, open and transparent processes, and harmonizing processes and requirements for administering affordable rental housing.

Offering affordable replacement rental units to post-application tenants does not align with the Housing Secretariat's process for administering affordable housing and would reduce the number of affordable units offered through CARHAS to households on the centralized housing waiting list. The Council-approved methodology to allocate affordable rental units through CARHAS is based on a hybrid model, where 50% of units are allocated using the established waitlist and 50% will be allocated through a random draw process open to all eligible applicants on the waitlist. The approved methodology does not include priority populations. If post-application tenants are offered the first right to return to affordable replacement rental units that are currently required to be allocated through CARHAS, this would be the first and only prioritized population.

To maintain equity and fairness as part of the CARHAS system, staff do not recommend that prioritizing post-application tenants over other tenant households in need of affordable housing, including the other equity-deserving priority populations identified in the Housing Action Plan.

### **Other Matters and Next Steps**

In response to tenant feedback, City Planning will publish updated rental replacement implementation practices in early 2025. Staff will continue to consult with stakeholders, including tenant advocacy groups and BILD, on rental replacement practices.

As a primary objective of the tenant relocation and assistance plan is to help tenants afford to continue living in similar housing within their neighbourhood until they can return to a replacement rental unit, the recommendations in this report reiterate previous Council requests to the Province of Ontario to reintroduce rent control to cover units occupied after November 15, 2018.

### **CONTACT**

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### **SIGNATURE**

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## **ATTACHMENT**

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Attachment 1: Official Plan Policy 3.2.1.6