

Amendments to the Building Code Act, 1992 respecting property standards by-laws

Date: March 12, 2026

To: City Council

From: City Solicitor

Wards: All

SUMMARY

Executive Committee has directed the City Solicitor to report directly to the March 25, 2026 meeting of City Council on any provincial regulatory or legislative changes that would make it easier for the City of Toronto to take remedial action and increase penalties in order to improve compliance with property standards.

This report responds to this direction.

RECOMMENDATIONS

The City Solicitor recommends that City Council receive this report for information.

FINANCIAL IMPACT

There is no financial impact resulting from this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact section.

DECISION HISTORY

On March 10, 2026, the Executive Committee adopted the following:

3. Executive Committee direct the City Solicitor to report directly to the March 25, 2026 meeting of City Council on any provincial regulatory or legislative changes that would make it easier for the City of Toronto to take remedial action and increase penalties for bad landlords in order to improve landlord compliance on meeting property standards.

<https://secure.toronto.ca/council/agenda-item.do?item=2026.EX29.14>

COMMENTS

Background

The provincial Building Code Act, 1992 (“BCA”), authorizes municipalities to enact property standards by-laws which prescribe standards for the maintenance and occupancy of property within the municipality. In Toronto, the property standards by-law enacted under the BCA is Municipal Code Chapter 629, Property Standards (“Chapter 629”). The BCA also lays out the mechanisms through which property standards by-laws can be enforced, with the process including the issuance of orders, possible appeals of those orders, laying of charges and/or remedial action if orders are not complied with after appeal periods have expired or all appeals have been exhausted.

Under the BCA, where an officer finds a property does not conform with the standards prescribed in a property standards by-law, the officer may make an order which, among other things, lays out the repairs to be made and the time for complying with the order. The BCA provides that an owner or occupant who has been served with an order may appeal the order to a property standards appeal committee established by the City within 14 days after being served with the order. The committee has all the powers and functions of the officer who made the order and can confirm, modify or rescind the order or extend the time for complying with the order. After the committee has made its decision, the municipality or the owner or occupant may further appeal the committee’s decision to the Superior Court of Justice within 14 days after a copy of the committee’s decision is sent. The Superior Court of Justice has the same powers as the officer and committee and can confirm, modify or rescind an order or extend the time for complying with an order. Each of these appeal opportunities is as-of-right, meaning a person can make the appeal without requesting the permission of the court and/or first demonstrating any error in the order.

Further enforcement of an order can only occur once either all applicable appeal periods have expired or all appeal hearings have been exhausted. Once this occurs and an order has been confirmed or deemed confirmed, the City has further enforcement options if the order has not been complied with. These enforcement options would be considered by the relevant MLS officers enforcing Chapter 629 in context and include:

- Laying a charge for failing to comply with an order. On conviction, a property owner or occupant could be liable to a fine of not more than \$50,000 for a first offence and to a fine of not more than \$100,000 for a subsequent offence, or where the owner/occupant is a corporation, a fine of not more than \$500,000 for a first offence and \$1,500,000 for a subsequent offence. Every director or officer of a corporation who knowingly concurs in the furnishing of false information, the failure to comply or offences set out in the BCA is guilty of an offence as well. The amount of fine levied in each case is determined by the provincial courts.
- The City carrying out “remedial work” to cause the property to be repaired to come into compliance with the order. The City would have the ability to recover its costs

by adding the amounts to the tax roll and the amount would have priority lien status as described in section 3 of the City of Toronto Act, 2006.

The BCA additionally contemplates another avenue of possible enforcement in emergency situations. Where an officer is satisfied that there is non-conformity with standards in a property standards by-law to such extent as to pose an “immediate danger to the health or safety of any person,” an officer can make an order requiring remedial repairs or other work be carried out immediately to terminate the danger. In those cases, the City can also enter the property before or after the order is served to take any measures to terminate the danger. After this work is done and the order is served, the City must issue the order to the property owner and such other persons affected by the order along with a document setting out the costs of the work the City performed. The City also must make an application to the Superior Court of Justice for an order confirming the order and the judge may confirm, modify or rescind the order and determine whether the amount spent by the City to terminate the danger may be recovered, in whole, part or not at all by the City.

Regulatory or legislative changes

Executive Committee has directed the City Solicitor to report directly to the March 25, 2026 meeting of City Council on any provincial regulatory or legislative changes that would make it easier for the City of Toronto to take remedial action and increase penalties to improve compliance with property standards.

As the process for enforcing property standards by-laws described above is set out in the provincial BCA, the City must follow the BCA in taking enforcement action. Currently, the appeals processes set out in the BCA can be particularly time consuming as an appeal working its way through the committee and court process can take several months given the need to work through requirements and processes set out by the court.

In response to Executive Committee's direction, City Council could consider requesting the BCA amendments or regulatory enactments listed below in order to expedite the timeframes in which enforcement action such as laying charges and/or remedial action could be taken.

Amendments to the BCA

- Request the province amend the Building Code Act, 1992, to eliminate the rights of appeal under section 15.3 and have property standards orders be confirmed as final and binding after the expiry of the time to comply set out by enforcement officers in the order.

As described above, when a property standards order is issued as a result of non-compliance with a standard set out in a property standards by-law, an owner or occupant who has been served with the order has two levels of appeal as of right: first to the City's property standards appeal committee and second to the Superior Court of

Justice. When a property remains in non-compliance with an order, the City can only take further enforcement action (such as remedial action and/or laying charges), once all appeal periods have expired or all appeals have been exhausted..

As the appeals process set out for property standards orders in the BCA can take time, if Council is interested in shortening the timeframe in which remedial action and other enforcement might be possible, Council could consider requesting the province eliminate the rights of appeal set out in the BCA. This could result in an order being deemed confirmed upon the expiry of the time for compliance with the order determined by City enforcement officers and set out in the order itself. This could significantly shorten the timeframes in which remedial action and/or the laying of charges could occur.

The removal of these appeal rights would also bring property standards orders more in line with the process the City follows with respect to orders issued under sections 384 and/or 385 of the City of Toronto Act, 2006 ("COTA"). Such orders, which are issued in response to contraventions of by-laws passed under COTA, include no as-of-right appeal processes.

Alternatively, Council could consider requesting the province remove one of the two levels of appeal the BCA provides for property standards orders. For example, an amendment to the BCA to remove the ability to appeal property standards appeal committee decisions to the Superior Court of Justice would leave in place the first level appeal – to the City's property standards appeal committee – but remove the second level of appeal to court. By removing the second level of appeal, a property standards order could be deemed confirmed/confirmed by a committee in a shorter period of time and the City could consider enforcement of orders through the laying of charges and/or remedial action after that shortened period has elapsed.

- In the alternative, if the appeal processes remain, request the province amend the Building Code Act, 1992 to reduce the 14-day appeal periods in section 15.3 to seven days or less.

If either or both levels of appeal remain under the BCA, the City could alternatively request that the province amend the BCA to reduce the existing appeal periods to seven days or less. This would have the effect of shortening the timeframes in which a person may make an appeal to either the property standards appeal committee and/or Superior Court of Justice and, in turn, shorten the timeframe in which the order may ultimately be deemed confirmed/confirmed such that further enforcement action with respect to the order could be taken.

- Request the province amend the Building Code Act, 1992, to increase the maximum fines possible for violations of property standards by-laws and property standards orders.

Currently the BCA sets out the following as the maximum fines possible for violations of deemed confirmed/confirmed property standards orders:

A person who is convicted of an offence is liable to a fine of not more than \$50,000 for a first offence and to a fine of not more than \$100,000 for a subsequent offence.

If a corporation is convicted of an offence, the maximum penalty that may be imposed upon the corporation is \$500,000 for a first offence and \$1,500,000 for a subsequent offence.

These penalty amounts were added to the BCA in 2005, with the corporate penalty amounts being updated in 2017.

If Council is interested in increased fines for non-compliance with property standards orders and/or by-laws, Council could request that these amounts be increased. However, the quantum of the fine imposed upon conviction would continue to be the in the authority of the presiding Justice of the Peace.

Regulatory enactments under the BCA

Under the BCA, the Minister of Municipal Affairs and Housing has the power to enact various regulations which may facilitate more expeditious action under property standards by-laws. These may include the following:

- Request the province enact a regulation to define “immediate danger to the health or safety of any person” as that phrase is used in section 15.7 to clarify that the City may exercise its emergency order power in *cases where long-standing non-compliance with property standards may be causing health and safety impacts to tenants*

As noted above, the BCA allows for the City to issue emergency orders and undertake immediate remedial action where non-conformity with a standard in a property standards by-law poses an “immediate danger to the health or safety of any person.” However, what constitutes an “immediate danger” is not defined and would be left to a judge in the Superior Court of Justice to determine on any given application by the City. Where the Superior Court does not agree that the situation posed an “immediate danger to the health or safety of any person,” the Court may not permit the City to recover the costs of the remedial action the City undertook.

The province could enact a regulation which defines what constitutes an “immediate danger to the health or safety of any person” and ensure that such a definition includes conditions of particular concern to City Council such as long-standing non-compliance with prescribed property standards. City officers could then consider use of the emergency order power in those circumstances as appropriate.

- Request the province enact a regulation which makes non-conformity with a standard prescribed in a property standards by-law an offence under section 36 of the Building Code Act, 1992, so that the City can lay charges without issuing an order.

- Request the province to enact a regulation which makes it a continuing offence to not comply with a confirmed property standards order, and designate each day non-compliance continues as an offence under section 36 of the Building Code Act, 1992.

As noted above, laying charges in relation to contraventions of property standards by-laws under the BCA is only possible once an order has been issued and either been deemed confirmed due to appeal periods expiring or confirmed after all appeals have been heard. The BCA provides, however, that it is an offence to contravene any regulation under the BCA.

If the province were to enact a regulation making it an offence to contravene any standard prescribed in a property standards by-law, the City could charge persons who contravene Chapter 629 without issuing orders and waiting for the relevant appeal periods to pass. Where charges are laid and convictions entered, the courts could also levy fines, expediting the process.

Additionally, the province could enact a regulation which would designate on-going contraventions of deemed confirmed/confirmed property standards orders as continuing offences for which a charge could be laid and fine levied by the courts for each day or part of a day that the offence continues. Such offences are possible under the City of Toronto Act, 2006 and similar provisions could be extended to property standards orders under the BCA. Indeed, the BCA already includes a similar authority for orders issued by the Chief Building Official. Such a regulation could serve as a deterrent to property owners who allow their property to remain in non-compliance with a confirmed property standards order for a prolonged period of time.

Other options

This report focuses on enforcement and remedial action work undertaken under the property standards authorities and does not provide an exhaustive list of all the ways that building health and safety processes could be streamlined. For example, removal of other legislated appeal processes required under other legislation, such as the Fire Protection and Prevention Act, 1997, could have similar benefits under those enforcement authorities. Additionally, there may be other opportunities to streamline the process that operational divisions like MLS can identify. City Council could consider authorizing the City Manager's Office, working with Legal Services and relevant enforcement divisions, to consider additional process improvements and additional legislative or regulatory requests to the province to further Council's objective of more efficient enforcement of legislation aimed at health and safety requirements in buildings.

As with the enforcement of any by-law or piece of legislation, enforcement officers must independently determine which enforcement tools (including laying charges or undertaking remedial action) are appropriate in any given case. City Council should not direct, or be seen to be directing, enforcement staff in the execution of their enforcement duties.

CONTACT

Cory Lynch, Director, Legal Services, E-mail: Cory.Lynch@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor