

Information Report



Service Area	Office of the Chief Administrative Officer
Date	Friday, July 26, 2024
Subject	Municipal Scan of Renoviction By-Laws

Executive Summary

Purpose of Report

This report aims to share information with Council regarding municipal renoviction by-law programs, including key findings from other municipalities that have implemented a renoviction by-law program.

This report and continued monitoring of municipal programs and policies is part of ongoing work related to encouraging increased housing supply and there are no further actions being recommended at this time.

Key Findings

There is a heightened concern across Ontario that with escalating rental prices, there has been an increase in renovictions in Ontario that is leaving tenants without suitable housing options. A renoviction occurs when a landlord circumvents the Residential Tenancies Act (RTA) and avoids allowing the tenant to move back into the renovated unit at their previous rental rate following a renovation. This is forcing more individuals and families out of affordable housing options and resulting in housing instability.

Under the RTA, landlords have the right to evict tenants if there are plans for major repairs or renovations that require a building permit and vacant possession. Under the Act, the landlord must give the tenant the opportunity to return to their unit at the current rental rate upon completion of renovation. Tenants do have recourse to the Landlord and Tenant Board in respect of allegations of breach by landlords, but some feel that this is not enough to prevent abuse and seek to have municipalities pursue further measures to curb renovictions.

Municipal-level anti-renoviction initiatives in Canada are in their infancy, and the jurisdiction of municipalities to regulate matters which the province administers through a separate Tribunal is untested. These programs are costly to implement both because they venture into areas which municipalities have not traditionally exercised any authority, and because that authority is still to be tested through the court system. Centralized provincial coordination and legislative changes are required to ensure that the issue of renovictions is addressed fairly across all municipalities without putting additional strain on municipal resources. Currently, the RTA does not include appropriate policy to stop landlords from circumventing the Act to evict and raise rents to unaffordable rates and these gaps have been identified as a provincial advocacy priority for the City of Guelph.

Strategic Plan Alignment

This report aligns to Future Guelph, Guelph's 2024 – 2027 Strategic Plan through the theme of people and economy where our goal is to support community well-being.

Future Guelph Theme

People and Economy

Future Guelph Objectives

People and Economy: Support community well-being

Financial Implications

None.

Report

Renters across Canada are dealing with rental increases that are making it difficult to find and sustain affordable housing, while municipalities are facing intense pressures to their social housing waitlists, and affordable housing stock. While the City and County of Wellington continue to work towards achieving our housing targets as set out in the City's Official Plan, it is imperative that existing rental stock remain affordable, and renters remain protected.

Many renters feel that they have been left vulnerable to renovictions under the RTA, as they perceive that the Act does not go far enough to prevent landlords from acting in bad faith and raising rents following the completion of renovation work or allowing the tenant back in the unit. Under the Act, landlords who issue N13 notices (notice to end tenancy) are allowed to order a unit to be vacated to complete "extensive" repairs or renovations. Landlords are required to give the existing tenant the first right of refusal to re-occupy the unit following the completion of renovations at the current rate that was agreed upon by lease.

Renoviction programming and by-laws along with tenant support programs could help protect tenancies, by ensuring building permits are obtained by landlords prior to renovations taking place and making sure that renters understand their rights. Under such programs if permits were not obtained, the renovation work could not be completed, and municipalities would be able to issue fines for non-compliance. In municipalities where a renoviction by-law has been adopted, the by-law aims to bind the landlord and tenant throughout the duration of the renovation process and places the responsibility of the right to return on both the landlord and the tenant.

This type of program however would come with significant costs and risk to the City. Additional City resources would be needed to regulate renovations to ensure that permits and licenses are obtained prior to work being completed and notices to tenants issued. As renoviction by-law programs within the province of Ontario are still in the early development and implementation stage across the province, with no case law supporting whether the municipal authority to penalize bad faith in the exercise of rights under another provincial Act is as-yet untested, there may be

additional costs associated with legal challenges from landlords who may feel that these programs are overbroad and geared towards all landlords, as opposed to only landlords acting in bad faith, and therefore that they conflict with other legislation. Further, while abuse of the authority to evict tenants to undertake major repairs is a concern, there are legitimate situations where extensive work is a legitimate matter of public safety and/or compliance with the Ontario Building Code. Attempting to make these determinations in parallel with another Tribunal is risky for the City.

Considering the above concerns, Provincial coordination is a preferred approach that would ensure that the issue of renovictions is addressed fairly across all municipalities without putting additional strain on municipal resources.

Renoviction By-Laws

Staff completed a preliminary scan of communities that have undertaken renoviction programs and by-laws that aim to protect tenant rights and housing stability to form a preliminary view of the approach that has been taken as well as to determine the cost of such programs.

Hamilton, Ontario

The City of Hamilton, Ontario (“Hamilton”) recently implemented the Tenant Support program, Safe Apartment Bylaw and Renovation Licence & Relocation By-law that will require a landlord to apply for a city renovation license within seven days of issuing an N13 eviction notice to a tenant with the license fee set at \$715 per unit, and \$125 to renew annually. This program also provides tenant education and awareness of tenant rights under the RTA.

Within this new program, Hamilton will only allow the eviction and renovations to take place if the landlord has already secured all building permits to complete the work and provides an engineer's report confirming vacancy is necessary. The landlord will also need to make arrangements with any tenant who want to return to their unit once the renovation is complete.

If landlords do not comply with the by-law, they can be fined up to \$500 per unit per day, plus administrative fines that will be determined by Hamilton’s Council. At this stage, the by-law is in its initial stages, with enforcement set to start in January 2025. Hamilton projects license fees will cover about 10 per cent of the costs to run the program inclusive of by-law officers, legal and housing staff, vehicles, and outreach. The introduction of the Renovation Licence & Relocation By-law, Safe Apartment By-law and Tenant Support Program represents a tax levy increase of over \$1 million a year in operating costs.

Across the Province, other communities continue to review the viability of a renoviction by-law, most notably Toronto and Ottawa, who have recently been directed to report back on the feasibility of a renoviction by-law later this year. While municipalities continue to work towards meeting housing targets and building more affordable housing, the reality of redevelopment could be the displacement of low- and middle-income tenants.

New Westminster, British Columbia

The City of New Westminster, British Columbia (“New Westminster”), passed a renoviction By-law in 2019, becoming the first community in Canada to do so with the intention of preventing landlords from evicting tenants under the guise of renovations and subsequently increasing the rent. Use of an extra-provincial model needs to be regarded with caution, as the legislation governing both municipal authority and residential tenancies is a matter of provincial law and therefore the law and its implementation is not identical between provinces.

Under the New Westminster by-law, landlords caught acting in bad faith can be fined up to \$1,000 a day and lose their business licenses. In addition, if landlords seek a license to evict an entire building for repair work, they have to apply to the city and prove the renovations are necessary to ensure the unit remains livable.

The New Westminster by-law further requires that, before an eviction notice is issued to a tenant, the landlord must provide alternative accommodation during the renovations and an offer to return to the renovated unit or to another comparable unit in the same building on the same or better terms as the rental agreement with that tenant pertaining to the unit being renovated. The by-law also authorizes the city to impose a monthly business license surcharge on any landlord that increases the rent in contravention of the by-law. Landlords may seek an exemption where they demonstrate that renovations cannot be completed in a safe manner unless some or all the properties are vacated.

The question of to what extent a similar model is viable under Ontario law has not yet been researched.

Rental Replacement By-Law

Kitchener, Ontario

The City of Kitchener, Ontario (“Kitchener”) is proposing a Rental Replacement By-law that was developed to balance three interrelated goals within the city by increasing housing supply, preserving existing rental homes, and protecting tenants. The proposed Rental Replacement By-law establishes a rental replacement permit process whereby applications requiring *Planning Act* approval that would result in the demolition or conversion of six or more rental units are required to replace those units onsite and provide compensation to displaced tenants.

The proposed Rental Replacement By-law is a tool designed to provide stability and compensation to tenants being displaced by redevelopment. Under the proposed Rental Replacement By-law, tenants would be offered the choice of a replacement unit, a rent waiver or compensation, and replacement units would be required to be provided at affordable rents for 10 years.

The Rental Replacement By-law has not been developed to prevent renovictions as in most instances this falls outside the scope of municipal powers and would be managed through the RTA. At this time, it is expected that the implementation of the proposed Rental Replacement By-law could be accomplished with existing

resources, however, additional resources and funding would be required for a dedicated renoviction by-law and program.

Notably, although the City has not gone as far as what Kitchener is proposing, the City did recently update its own Demolition Control By-law to provide for greater control over the premature resort to demolition permits before the owner is ready to rebuild.

Next Steps

As municipalities continue to develop and implement policies and programs to mitigate renovictions, staff will continue to monitor the progress of these programs and inform Council of significant developments and outcomes as they become available. The City remains committed to a human rights-based approach to housing, which includes both the development of more affordable housing options for those in need, and the preservation of existing affordable housing supply. Staff will continue to advocate to the province, as legislative changes to the RTA are required to ensure that the issue of renovictions is being addressed consistently across Ontario.

Financial Implications

None.

Consultations

Corporate and Community Safety

Planning and Building Services

Legal and Court Services

Attachments

None.

Departmental Approval

None.

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