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City of Hamilton set to become the first City in Ontario with a By-law to address "bad faith" evictions

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City of Hamilton set to become the first City in Ontario with a By-law to address "bad faith" evictions

Background:

The City of Hamilton, like many municipalities across Canada are experiencing an affordability housing crisis with average market rents far outpacing inflation over the last number of years. This has created a significant impact on long term tenants in rent-controlled units whose rents remain below current market rent levels, as there is now a significant economic incentive for landlords to have tenants move out so that they are able to increase the rents on vacated units to market rent levels. Furthermore, Hamilton has ageing housing infrastructure, which contributes to tenants' vulnerability to bad faith evictions, commonly referred to as "renovictions".

Provincial Legislation: *Residential Tenancies Act*

The *Residential Tenancies Act*, 2006 S.O. 2006, c. 17 ("*RTA*") is provincial legislation that regulates disputes between landlords and tenants. It allows landlords to issue an N-13 notice to terminate a tenancy because the landlord seeks to make repairs or renovations to its rental unit that cannot be completed while the tenant is continuing to live in the rental unit. If an N-13 is issued, section 53 of the *RTA* protects tenants from "permanent eviction" by giving the tenants 120 days to determine if they want to re-occupy the rental unit after the completion of the repairs or renovations.
Under the *RTA* if the tenant does not choose to exercise the right to re-occupy, then the tenant receives compensation from the landlord or the offer of another rental unit. However, the *RTA* makes no provision for another rental unit, if a tenant exercises the right to re-occupy for the duration of the renovation.

The Renovation Licence and Relocation By-law

The City's Renovation Licence and Relocation By-law is drafted to fill gaps in the RTA. It takes a reasonable and complementary approach to the *RTA*, balancing the pressing local issue with the overall responsibility of the province to govern landlord and tenant matters.
While a local government cannot prohibit a landlord from issuing an N-13 under the *RTA*, a City can use it as the starting point for obtaining a renovation licence.

Under the By-law, within 7 days of issuing an N-13, a landlord must submit an application to the City for a renovation licence. The application shall include:

1. The building permit;
2. A report from a professionally designated engineer or other person with requisite qualifications, stating that vacant possession is required;
3. A copy of the N-13 that was issued to the tenant; and
4. Confirmation that a Tenant Rights and Entitlement Package has been provided to the tenant.

Furthermore, if a tenant does choose to exercise the right to re-occupy the unit following the repair or renovation, under the By-law the landlord is required to make arrangements with the tenant for the duration of the renovation.

An arrangement, is either a:

1. Temporary comparable accommodation during the duration of the renovation; **or**
2. Compensation in the amount equal to the difference between the rent rate currently paid by the tenant for the rental unit being renovated and the average market rent outlined by the Canada Mortgage and Housing Corporation (CMCH).

If the landlord and tenant are unable to make arrangements in accordance with the By-law, a landlord may apply to the City for an exemption to the arrangement provision of the By-law to still obtain a renovation licence.

A full copy of the By-law can be accessed here: **Appendix "A" to Report PED23072(a) (escribemeetings.com)**

Council Direction:

In 2023 City Solicitor, Lisa Shields and Director of Municipal Law and Licensing Compliance, Monica Ciriello were directed by City Council to provide a full suite of options to halt "renovictions" in Hamilton. This suite of options included the preparation of the first in Ontario, Renovation Licence and Relocation By-law. The By-law was approved unanimously at committee on January 17, 2024. City Council will need to ratify the Renovation Licence and Relocation By-law at its meeting on January 24, 2024. For further inquiries or additional information, please feel free to reach out directly via email at **Lisa.shields@hamilton.ca** and **Monica.ciriello@hamilton.ca**.

Questions?

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