

Renoviction Report

Presented To: City Council

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Report Summary

This report provides information regarding opportunities to reduce the number of renovictions in Greater Sudbury together with the cost/staffing implications.

Relationship to the Strategic Plan, Health Impact Assessment and Climate Action Plans

This report refers to Objective 5.0 Housing as identified in the Strategic Plan and has no connection to the Health Impact Assessment and the Community Energy & Emissions Plan (CEEP).

Financial Implications

There are no financial implications associated with this report.

Background

On February 27th, 2024, Council for the Greater City of Sudbury passed a motion directing staff to explore opportunities to reduce the number of renovictions in Greater Sudbury. Staff were directed to present a report to Council by October of 2024, outlining possible actions the municipality can undertake which could include recommendations for amendments to various bylaws, the use of building permits and a potential city-wide renovictions bylaw. The report was to outline any cost/staffing implications with the aim of preventing bad faith renovictions aligning with the City's goal to end homelessness in Greater Sudbury by 2030.

Executive Summary

This report confirms the existing practices and systems in place to deter bad faith renovictions in the City of Greater Sudbury. The report does not provide a recommendation but indicates the opportunity to further enhance collaboration with partner agencies to ensure tenants and landlords are aware of the resources, and their rights and responsibilities. This report was developed in consultation with Legal Services, Building Services, the Landlord and Tenant Board, Social Services, and various municipalities in Ontario. This report will explain the role of the Landlord and Tenant Board, forthcoming enhancements to the provincial legislation, the parties involved and their functions and limitations.

Role of the Landlord and Tenant Board

The Landlord and Tenant Board (LTB) was created by the Residential Tenancies Act (RTA) on January 31, 2007. The RTA gives residential landlords and tenants rights and responsibilities and sets out a process for enforcing them. The LTB is a quasi-judicial system, a Tribunal, with the role of resolving disputes between residential landlords and tenants through mediation or adjudication. The LTB also provides information about its practices and procedures and the rights and responsibilities of landlords and tenants under the Residential Tenancies Act.

The LTB has an established system for support and resolution including enforcement of violations with respect to illegal actions of landlords. This network of support includes Customer Service Officers, Dispute Resolution Officers, Adjudicators, and the Rental Enforcement Unit.

Current Legislation related to Renovictions

The LTB provides a mechanism for landlords to give notice to a tenant because they want to demolish the rental unit, repair it or convert it to another use, also known as a Renoviction, and require the current tenants to vacate. The form filed with the LTB by landlords is an N13 Notice of Termination. Under the Ontario Residential Tenancies Act (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. However, the landlord must give the tenant the opportunity to return to their unit upon completion. The practice of landlords using this N13 in bad faith and not adhering to the requirements of the RTA is a growing concern in every community.

The strategy for abusers of the provision is to overlook the statutory obligations in the RTA where the vacated tenant is given notice that the renovations are complete and given the opportunity to move back into the unit. Instead, the re-furnished units are rented to new tenants and for a much higher price. Abusers of the provision may also target specific vulnerabilities in tenants, like their limited knowledge about their rights or their financial situation. The bad faith landlords will risk that the tenants will not bring an application to the LTB. Where the landlord violates this provision and a former tenant brings an application, the financial liability can be substantial.

Even though a landlord is only permitted to terminate a tenancy for renovations if a building permit and vacant possession is necessary, there are presently no provisions in the RTA dictating when the landlord must obtain the building permit. Additionally, there are no requirements regarding any obligation on the landlord to furnish proof of the building permit to the tenant or to provide any form of evidence, like an engineering report, to indicate the necessity of vacant possession. However, Bill 97 which has received Royal Assent, addresses these gaps and once in effect the RTA will have all the necessary tools to address any bad faith renovictions by way of hearings at the LTB Tribunal.

Residential Tenancies Act, 2006 - Fines and Penalties

Where there is a contravention and finding of guilt for offences in the RTA the fines can be extensive, \$50,000 for an individual and up to \$250,000 for a corporation. In addition to these fines there may be monetary penalties and compensation assigned to the tenant or landlord determined at the time of the RTB Hearing.

Bill 97 - Protecting Tenants Act, 2023

Bill 97 is an Act created to amend various statutes with respect to housing and development and proposes changes to the RTA. It received Royal Assent on June 8, 2023, but as of the date of this report it is not yet proclaimed. In summary, Bill 97 will be changing the RTA in the following ways;

- Landlords will be required to include a report with their notice of termination, prepared by a qualified person, which states that the repairs or renovations are so extensive that they require the vacant possession of the unit, and which meets any other prescribed requirements. A landlord's failure to provide this report renders the notice void.
- The LTB will consider the report when determining whether to make an order terminating the tenancy, although the Board will not be bound by the report. A tenant who receives notice of termination of a tenancy for the purpose of repairs or renovations has the right to move back into the unit once the repairs are complete.
- Landlords must provide tenants with written notifications about the status or renovations/repairs, including estimated completion date and any changes to this date, as well as a final notification once the renovations/repairs are completed stating when the unit will be ready for re-occupancy. When the unit is ready for occupancy, the landlord must give the tenant at least 60 days to exercise the right of first refusal to re-occupy the unit.
- Landlords who do not comply with the notice requirements will result in their notice being deemed to constitute a failure to have afforded a right of first refusal to re-occupy.

Municipal Comparators

Hamilton

City of Hamilton defines renovictions as “when a landlord in bad faith undertakes legal renovations or uses the proposal of renovations to evict a tenant from their unit in order to rent the unit at a higher price with or without improvements.”

On January 24, 2024, the City of Hamilton approved the “Renovation License and Relocation Bylaw” making them the first city in Ontario to create their own “Anti-Renoviction” bylaw. Beginning in January 2025, the bylaw will address many of the same concerns that are outlined in Bill 97 enacted to enhance tenant rights in the RTA. The bylaw will require;

- Landlords to file an application with the city for a renovation license within seven days of issuing to the tenant an N13 to do repairs or renovations.
- Landlords will be required to obtain a building permit and submit a report from a qualified person (engineer) that states that the eviction is required.
- Landlords are to include in their application for a renovation license many of the same supporting documentation that would be filed with the LTB.
- Landlords will be required to abide by the RTA when serving the tenant with the N13 eviction notice.
- Landlords will be required to provide an information package prepared by the City to the tenant which highlights their rights.
- The renovation licence will cost \$715 per unit, with an annual renewal fee of \$125.

Hamilton has estimated 23 affordable units are lost for every new one built in their community. The city also wants to set fines for non-compliance with the bylaw, which they hope will range from \$500 to \$10,000. for an individual landlord and \$500 to \$50,000 for a corporation. The fines are subject to approval from the Ontario Ministry of the Attorney General. The new bylaw, along with the Safe Apartment Buildings Bylaw, will see a team of 28 new full-time employees added to the city’s Licensing and Bylaw Services Division. City staff only expect licensing fees to cover about 10 per cent of the program’s costs, meaning that taxpayers will cover the rest – about \$800,000 per year.

In order for the City of Hamilton to successfully implement their bylaw, the following positions and resources are listed below;

- Three full-time (3.0 FTE) Licensing Administrators
- Three full-time (3.0 FTE) Licensing Compliance Officers
- One full-time (1.0 FTE) Solicitor
- One full-time (1.0 FTE) Housing Clerk

- Purchase of three (3) vehicles
- An outreach, education, and communications budget

City of London

On March 18, 2024, the City of London presented a staff report related to implementing a renovation bylaw in their region. London's staff report included a letter addressed to Members of London City Council from J. Hoffer of Cohen Highley Lawyers on behalf of the London Property Management Association (LPMA). The opinions stated in that letter are that the implementation of a renovation by-law like that implemented in the City Hamilton is:

- (1) *ultra vires* (beyond the power) of the jurisdiction of a municipality, and
- (2) conflicts with the Residential Tenancies Act and therefore is of no force and effect.

City of Toronto

Council for the City of Toronto voted in favour of developing a renovation by-law at its meeting of June 26, 2024. They directed staff to use the Hamilton bylaw as a model for public consultation and implementation. Staff will report back to the Planning and Housing Committee on October 30, 2024, with a Renovations bylaw for adoption by City Council. They are aiming for November 1, 2025, for the bylaw to take effect.

Council also approved other recommendations such as having council request the province to proclaim Bill 97 and to make many other amendments to the RTA including requiring landlords to obtain a building permit before issuing the notice of termination N13.

The report does not mention the financial impacts for implementing the bylaw, but they do indicate that it is expected that the initiative could not be funded through costs recovery and will require dedicated funding.

Building Permits and Orders

The RTA provides landlords an exemption from the requirement to compensate a tenant if the landlord was ordered to demolish or repair the rental unit or complex under any Act, such as the Building Code Act.

When the City receives a complaint regarding an illegal unit we are required to respond to ensure compliance with the Building Code and bylaws to ensure the safety of the tenants. Where a Building Inspector attends a property and confirms an illegal dwelling unit was built without benefit of permit, an order would be issued requiring the owner to obtain a permit or remove the unit. This presents two challenges:

- 1) The landlord now has reasonable cause to evict the tenant because we have given an order that requires the landlord to obtain the necessary approvals or evict the tenants.
- 2) The order now removes the requirement of the landlord to pay for relocation of the tenant.

To date, in 2024 Building Services has received only 15 requests for permits where interior alterations are being completed to residential rental units.

Statistics – Renovictions and LTB Hearings

Officials at the LTB provided the Greater Sudbury staff with statistics regarding the filing of N13's in Ontario where the landlord and tenant required mediation or adjudication. The LTB does not collect statistics when the tenant vacates voluntarily.

In 2023-2024 the LTB received 1094 applications for hearings from tenants and landlords in Ontario related to Renovictions. Based on the population of Ontario, for every 13,001 residents there is one (1) renoviction application that is made to the LTB Hearing Tribunal. Of those LTB Hearings it is unknown how many were done in bad faith. The LTB was not able to provide statistics for Greater Sudbury but we can estimate per capita based on statistics. The reasons for the applications are as follows;

Reason for Notice of Termination	Applications in Ontario	Greater Sudbury*
Demolition of a residential unit	378	4.5
Repair/renovation a residential unit	502	5
Conversion to a residential unit to a non-residential use	214	2.5
Total LTB Hearings for Renovictions	1094	12

*based on provincial average per capita

The LTB was not able to provide the average time taken to resolve a complaint by way of Hearing. Renoviction hearings from the N13's are scheduled to be heard within 30 weeks from filing according to the LTB.

Conclusion

The data does not indicate that bad faith renovictions require additional staff, resources and services as noted in Hamilton's bylaw.

Greater Sudbury recognizes the importance of encouraging property owners to develop their residential properties and complete capital investments while respecting the rights of tenants and ensuring affordable housing in our community. Respecting the rights of both landlords and tenants should be the focus of legislation and bylaws. Increased legislative requirements on property owners who wish to invest in their properties may be seen as a hindrance to economic growth with unintended community degradation.

The Residential Tenancy Act contains provisions to prevent bad faith renovictions while the Landlord Tenant Board has mechanisms in place to respond to complaints from tenants and landlords. The enhancements by way of Bill 97 to the RTA are expected to close gaps in the legislation and further the protection of tenant rights.

Although the City of Greater Sudbury has authority to enact an anti-renoviction bylaw, this should not be confused with the potential for the bylaw to conflict with provincial legislation and therefore be susceptible to challenge for being wholly or partially of no force and effect by virtue of Section 14 of the Municipal Act. Although the Hamilton bylaw is carefully crafted to recognize the different legal framework of Ontario's Municipal Act they could still face legal challenges with its implementation.

Council could petition the province to proclaim Bill 97 to make the amendments to the RTA including requiring landlords to obtain a building permit before issuing the notice of termination N13.

The City has current systems in place that support Bill 97 such as;

- Open Data Portal: can be assessed by the public to view issued building permits, and
- Development Dashboard: secondary unit information and multi-residential information

Staff are committed to enhanced communication with community partners including Social Services and Public Health. We will continue to provide education and direct tenants to the appropriate services through the

existing channels. With the launch of the City's new Building Services system Pronto, staff will be exploring the notification capability to alert staff in other departments such as Social Services of permits being obtained for existing residential units.

Resources Cited

[Bill 97, An Act to amend various statutes with respect to housing and development](#)

[City of Hamilton Renoviction Report](#)

[City of Toronto Renoviction Report](#)

Greater Sudbury [Development Dashboard](#)

Greater Sudbury [Open Data Portal](#)

Greater Sudbury [Strategic Plan 2019-2027](#)

[Landlord and Tenant Board](#)

[Eviction for Personal Use, Demolition, Repairs and Conversion](#) Guideline 12 – LTB

[Minutes from the Feb 27 2024 Council Meeting](#) – Members' Motion CC2024-50 Moved By Councillor Fortin
Seconded By Councillor Signoretti

[Ontario.ca – Information for Tenants and Landlords](#)

[Rental Housing Enforcement Unit](#)

[Residential Tenancies Act](#)

[Statistics Canada](#)