



MEMO / NOTE DE SERVICE

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TO: Community Services Committee and Council

DESTINATAIRE : Comité des services communautaires et Conseil

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DATE: October 6, 2023

6 octobre 2023

FILE NUMBER: ACS2023-CSS-GEN-014

SUBJECT: Tenant Defence Fund Programs in Toronto and Hamilton

OBJET : Programmes de fonds de défense des locataires de Toronto et de Hamilton

PURPOSE

The purpose of this memo is to report back with a summary of Tenant Defence Fund (TDF) programs in Toronto and Hamilton, and to provide an overview of how a similar program could be implemented in Ottawa. This memo is in response to the below [direction to staff](#), submitted by Councillor McKenney, at a joint Community and Protective Services and Planning Committee meeting on June 16, 2022:

That staff be directed to review the scope and impact of tenant defence fund programs in other Ontario municipalities, such as Hamilton and Toronto, and report back in the Next Term of Council on their findings, including potential costs and logistics of implementing a similar program in Ottawa.

EXECUTIVE SUMMARY

Toronto and Hamilton are the only two Ontario cities with TDF programs, which aim to protect affordable housing stock in the rental market by providing resources and financial support to tenants. In Toronto, the Toronto Tenant Support Program (TTSP) specifically supports tenants who are at risk of eviction due to above-guideline increases (AGI) in rent, for maintenance and renovation reasons.

In Hamilton, the Tenant Defence Fund Pilot Program (TDFPP) helps tenants in AGI and renoeviction situations. While many of these tenants are vulnerable and low-income, tenants of varying income levels are eligible if the rent they pay falls below the amount specified in the TDF program guidelines, rather than being eligible based on household income. Toronto and Hamilton staff report that TTSP and TDFPP programs have been very successful to date.

In Ottawa, Housing Help and Action-Logement, both of which are funded by the City of Ottawa, have a paralegal that provides legal services to eligible tenants based on income as opposed to the amount of rent they pay. In addition, there are provincially funded legal clinics that provide similar services to low-income renters in need of legal services. If the City of Ottawa were to implement a TDF program, certain considerations, like budget, staffing, and procurement requirements would need to be factored into the program design. This memo outlines those considerations.

BACKGROUND

The term “Tenant Defence Fund” is used to define the resources and supports available to tenants seeking legal assistance with the overall aim of preserving their affordable housing. At a joint meeting of CPSC and the Planning Committee on June 16, 2022,

staff were directed to review the scope and impact of the tenant defence fund programs in other Ontario municipalities, such as Hamilton and Toronto, and report back during the next term of council on their findings, including potential costs and logistics of implementing a similar program in Ottawa.

DISCUSSION

This section provides a summary of the scope and intent of current TDF programs in Toronto and Hamilton.

Toronto

The Toronto TDF was created in 2000 in response to the *Provincial Tenant Protection Act, 1997*. The program aims to preserve the supply of affordable rental housing in the City of Toronto. The TDF has recently undergone changes in how it is administered and was replaced by the Toronto Tenant Support Program (TTSP) in 2022. While the administration and scope of the program has changed, the program objectives and eligibility remain the same.

Until 2022, the TDF provided grants to help tenants living in private market rental housing cover the costs of hiring professional services to engage in certain legal processes that are in the public interest to maintain affordable rental housing.

Toronto TDF grant funding could be used to pay for the following specific legal services:

1. Dispute an Above Guideline Rent Increase (L5);
2. Dispute a notice to demolish, repair/renovate or convert multiple rental units (N13).

Since 2022, tenant groups have been accessing legal support from the Canadian Centre for Housing Rights (CCHR), a designated legal organisation, rather than applying for a Tenant Support Grant to obtain legal services independently.

The legal services offered by CCHR have been expanded to include, in addition to L5s and N13s:

1. No-fault evictions;
2. Housing maintenance applications; and
3. Other legal processes at the Landlord and Tenant Board, Local Planning Appeal Tribunal, Divisional Court, or other administrative tribunal or court with the intent of preserving affordable rental housing in Toronto.

Eligibility criteria for the program remains unchanged: the applicant must be a tenant group or association of two or more tenants in a building, only buildings (or related groups of buildings) with five (5) or more rental units are eligible, and the rents need to be at or below the Canada Mortgage and Housing Corporation's (CMHC) average market rent plus 25 percent. An application must be signed by at least 25 percent of units in a building with a cap of 30 units for a building with more than 100 units.

The program has also been complemented by a Tenant Hotline, operated by a non-profit organization named the Federation of Metro Tenants' Associations (FMTA), that provides information and organizing services for private market tenants in Toronto. The TDF program previously exhausted its funding at times due to high demand, with most of its funding being allocated to FMTA.

Currently, the total funding allocation for TTSP is \$1.2 million per year. TTSP allocates funding through a call system, transferring all funds to third-party providers to hire staff and deliver the services. The funding to providers is fixed for three-year long contracts, ensuring funding stability over the term. These third-party providers are the Canadian Centre for Housing Rights (CCHR), the Federation of Metro Tenants' Associations (FMTA), and the Centre for Immigrant and Community Services (CICS).

The TTSP is not solely focused on funding legal services related to the preservation of affordable housing, as was the TDF. The following services are included under the TTSP:

- Capacity building through tenant associations to expand awareness on landlord and tenant rights and responsibilities.
- Providing tenant information services by developing communication strategies and use of social media and new information channels like a chat function and pre-recorded messages.
- Researching and developing policy on current trends and creating recommendations for the purpose of advocacy to the province.

TTSP is administered by the Shelter, Support, and Housing Administration Division (SSHA) of the City of Toronto. The City of Toronto has an agreement with the CCHR to provide legal, research, policy, and data development services. The FMTA provides information, assists with organization and capacity-building services to the tenants. Lastly, CICS provides holistic information and a referral strategy for housing support to tenants.

The City of Toronto dedicated 3 to 4 staff members during the program development phase for TTSP. Once the program was in place, the staff requirement was reduced to contract management and other TTSP research tasks since the services were being offered by third-party organizations.

Though TDF has recently been replaced by TTSP, the overall approach of having a program dedicated to protecting affordable rental housing stock remains the same.

Hamilton

In March 2019, Hamilton created the Tenant Defence Fund Pilot Program (TDFPP) to assist with Above Guideline Increase (AGI) applications at the Landlord and Tenant Board (LTB). In the Spring of 2021, Hamilton expanded the TDFPP program to support tenants in receipt of N13 applications from their landlords (demolish, repair/renovate or convert multiple rental units). TDFPP started with limited funding of \$50,000 in 2019. On April 22, 2023, City of Hamilton staff submitted a report to council requesting additional funding as the initial \$50,000 allocation had been spent. The additional \$50,000 approved in April 2023 has already been spent due to sustained high demand for the program.

TDFPP is administered by the Housing Services Division within the Healthy and Safe Communities Department of the City of Hamilton. Under the TDFPP, approved households can hire a paralegal or lawyer of their choosing for services related to case preparation and LTB representation. Initially, grants to hire a paralegal or lawyer licensed with the Law Society of Ontario were capped at \$1,000, with this amount being raised to \$2,500 in April 2021.

In addition to funding legal services related to the preservation of affordable housing, the TDFPP leverages existing internal resources within the Housing Services Division to provide basic education, help tenants with LTB materials, assist tenants organize their defense, prepare grant applications and build capacity to support groups of tenants to negotiate their rights with landlords long-term. Hamilton has one dedicated staff member working on the TDFPP.

TDFPP funding is available to eligible tenant groups consisting of a minimum of 4 households if at least 20 percent of the units affected oppose the landlord's application, and the rent for the affected tenants is at or below a certain rent level. These rents are \$972 for a one-bedroom unit, \$1,181 for a two-bedroom unit and \$1,334 for a three-bedroom or larger unit.

The TDFPP does not endeavor to stop landlords from obtaining fair AGIs or completing renovations that meet the criteria set out in the *Residential Tenancies Act, 2006*. The program is aimed at providing resources to vulnerable tenants who may not have the financial and legal resources that are typically available to their landlords to defend against AGIs and N13 notices that are issued in 'bad faith.'

The TSDPP program has been highly successful, with a 100% success rate at LTB for AGI applications and over 80% for N13 notices.

Current Services Offered in Ottawa

In Ottawa, there are two community agencies – Housing Help and Action Logement – that provide City-funded services and supports for clients who are in need of safe, secure and affordable housing.

The services and supports provided by Housing Help and Action Logement include the following:

1. Integration and Prevention: Advocating for tenants by focusing on safety, health and sustainability to prevent housing instability and housing loss by acting as an intermediary to resolve landlord tenant issues.
2. Counselling and Support: Providing tools and coaching for households to find housing on the private market.
3. Affordable Housing Applications: Assisting with the application process, including support with priority requests.
4. Facilitating Access: To emergency shelters, safe houses for individuals experiencing homeless or fleeing domestic violence.
5. Paralegal Services: For tenants appearing before the Landlord and Tenant Board, the Internal Review Panel and other adjudicative bodies.
6. Partnerships: With key organizations to support a multi-faceted approach to homelessness intervention.
7. Advocacy: By sitting on a variety of committees addressing current issues related to affordable housing and homelessness prevention.

It is important to note that unlike TDF programs in Toronto and Hamilton, the legal services provided by Housing Help and Action Logement are based on household income, rather than the amount of rent paid. However, Housing Help and Action Logement do have the ability to make adjustments to the eligibility criteria for the services they offer. Currently, the City of Ottawa provides funding for one full-time

paralegal position with Housing Help and two full-time paralegal positions with Action Logement. Both organizations have indicated that demand for their services exceeds capacity, which could be expanded if additional funding for more paralegal positions is made available from the City of Ottawa.

Considerations for Implementing a TDF Program in Ottawa

The City of Ottawa could consider expanding the service agreement with Housing Help and Action Logement to include the provision of increased paralegals that provide legal services with the aim of preserving affordable housing for households most in need. This would mean expanding services for households whose rents are below a certain limit, without regard to their income as a basic eligibility criterion. Another option for program development would be to identify a budget and provide grants for eligible households to retain legal advice and representation, similar to Hamilton's administration of the TDF.

In addition to current City-funded services, it is important to note that tenants also have access to a number of non-City funded resources, which may be available at no cost. These resources include:

- Law Society Referral Service (up to 30 minutes free consultation with a lawyer)
- Community Legal Clinics (for low-income households)
- Legal Aid Ontario
- Pro Bono Ontario (up to 30 minutes of free legal advice)

If the City were to consider the implementation of a TDF program set up specifically to preserve affordable housing in Ottawa, similar to those in Hamilton and Toronto, such a program would require the establishment of:

- An annual budget;
- Eligibility criteria based on rent paid;
- Additional staffing to administer the program and a determination of which model would best be suited (3rd party delivery of service such as through Action Logement and Housing Help, or the allocation of a grant to retain legal services similar to how Hamilton administers the program); and
- A monitoring and evaluation framework.

CONCLUSION

By expanding the City-funded services to households based on the rent they pay, a TDF may help preserve housing affordability in Ottawa. Supporting tenants in their efforts to evade disproportionate rent increases would help to avert evictions, which put further strain on limited funds that households have for housing and can result in homelessness. Additionally, with average rent increases outpacing household income growth in recent years, a TDF program may provide much-needed support against 'bad faith' renovations and AGI notices.

However, to develop a TDF program in Ottawa, further investigation would be required to estimate the cost, logistics, staffing requirements, education, training, and awareness building for residents. This investigation could also explore how a TDF would align to other City of Ottawa programs and initiatives, such as the Better Homes Ottawa Loan Program. The Better Homes program provides low-interest loans to cover the cost of home energy improvements. A potential TDF program would ensure such loans would not result in the eviction of existing tenants via AGI and N13 notices, but rather work towards improving the quality of housing for existing tenants, especially vulnerable and low-income households.

Overall, further investigation into a TDF program for Ottawa could be beneficial. Housing loss prevention is a highly effective way to maintain affordability in the housing market, and an initiative such as a TDF could further support the achievement of the 10-Year Housing and Homelessness Plan objectives in Ottawa.

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