

Subject: Review of Tools to Prohibit or Prevent “Renovictions”

File Number: ACS2022-PIE-GEN-0008

**Report to the joint meeting of Community and Protective Services Committee and
Planning Committee**

on 16 June 2022

and Council 22 June 2022

**Submitted on May 20, 2022 by Stephen Willis, General Manager, Planning, Real
Estate and Economic Development Department**

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Ward: Citywide

**Objet : Révision des outils permettant d’interdire ou d’empêcher les
« renovations »**

Dossier : ACS2022-PIE-GEN-0008

**Rapport à la réunion conjointe du Comité des services communautaires et de
protection et Comité de l'urbanisme**

le 16 juin 2022

et au Conseil le 22 juin 2022

**Soumis le 20 mai 2022 par Stephen Willis, General Manager, Direction générale de
la planification, de l’immobilier et du développement économique**

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Quartier : À l'échelle de la ville

REPORT RECOMMENDATIONS

That the joint Community and Protective Services Committee and Planning Committee recommend Council:

1. Request the Mayor, on behalf of Council, write to the Minister of Municipal Affairs and Housing, asking the Province to protect existing tenants and affordable rental housing stock by updating the *Residential Tenancies Act, 2006* and other relevant legislation such as the *Building Code Act, 1992* with the objective to:
 - a. further prevent and prohibit instances of renovictions and protect existing affordable rental housing stock; and
 - b. specifically address through legislative changes the instance specified in Motion 44/18 (City Council, November 25, 2020) when a landlord undertakes renovations to a rental property and then replaces the evicted tenants with those who would pay higher rents after the renovations are completed; and
2. Direct Planning, Real Estate and Economic Development (PRED) and Community and Social Services (CSSD) Staff to, as a joint-departmental work plan item, explore the feasibility and identify potential resource implications to the adoption and implementation of a By-law under Section 99.1 of the *Municipal Act*, to prohibit without replacement the full or partial demolition or conversion of residential and rental housing of six or more units without a permit issued by the City, possibly by amending the Demolition Control By-law, and report back by Q2 2023.

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'urbanisme et le Comité des services communautaires et de protection recommande ce qui suit au Conseil :

1. Enjoindre au maire, au nom du Conseil, de demander par écrit au ministre des Affaires municipales et du Logement la protection par le provincial des locataires et du parc actuel de logements locatifs abordables en mettant à jour la *Loi de 2006 sur la location à usage d'habitation* et toute autre loi pertinente comme la *Loi de 1992 sur le code du bâtiment*, dans le but :
 - a. d'empêcher et d'interdire les situations de rénoviction, et de protéger

le parc actuel de logements locatifs abordables; et

- b. d'aborder spécifiquement par des modifications législatives le cas spécifié dans la motion 44/18 (Conseil municipal, 25 novembre 2020) lorsqu'un propriétaire entreprend des rénovations dans une propriété locative et remplace ensuite les locataires expulsés par ceux qui accepteraient de payer des loyers plus élevés une fois les rénovations terminées;**

- 2. Enjoindre au personnel de Planification, Immobilier et Développement économique (PIDE) et des Services sociaux et communautaires (SSC), dans le cadre d'un plan de travail établi entre directions générales, d'examiner la possibilité d'adopter et de mettre en œuvre un règlement municipal, en vertu de l'article 99.1 de la *Loi sur les municipalités*, et d'en déterminer l'éventuelle incidence sur les ressources, afin d'interdire la démolition ou la transformation totale ou partielle, sans leur remplacement, de six logements résidentiels locatifs ou plus sans l'obtention d'un permis délivré par la Ville, éventuellement en modifiant la réglementation municipale sur les démolitions, et de rendre compte au deuxième trimestre de 2023.**

BACKGROUND

Legislative Context

On November 25, 2020, Council directed staff through Motion 44/18, attached as Document 1 to this report, as follows:

THEREFORE BE IT RESOLVED THAT staff prepare a report for consideration by Committee and Council that would outline all the municipal tools available to the City of Ottawa to prevent or prohibit such "renovictions" in the City of Ottawa, including a review of any by-laws, policies or programs that may be used by other municipalities in an effort to prevent the further loss of affordable rental units.

The term "renoviction" refers to "those evictions that occur when a landlord undertakes renovations to a rental property and then replaces the evicted tenants with those who would pay higher rents after the renovations are completed."

The motion also referenced [Bill 184](#), the *Protecting Tenants and Strengthening Community Housing Act*, 2020, which namely amended the “Tenant’s right to compensation, repair or renovation”, under the *Residential Tenancies Act*, 2006.

The [Residential Tenancies Act, 2006](#) (RTA) is the primary legislation governing the relationship between landlords and tenants in Ontario.

Section 50 of the RTA specifically allows “renovictions”, as long as the landlord gives at least 120 days’ notice and informs the tenant of their right of first refusal to re-occupy the unit once the renovations are completed.

The next sections of the RTA outline the tenants’ rights after notice of termination occurs. For example, the tenant has a right of first refusal to occupy the rental unit after the renovations are complete (s. 53(1)), and the rent must increase no more than what could lawfully have been charged if there had been no interruption in the tenancy (s. 53(3)). In certain circumstances, the tenant is entitled to three month’s rent or another rental unit acceptable to the tenant if the tenant does not wish to return to the unit.

A fulsome review of the relevant RTA sections on renovictions can be consulted in Document 2.

Municipal Authority

Municipalities in Ontario are limited in the scope of what action they can take around residential tenancies, as the Province has already implemented the RTA to govern this area.

In the case of *London Property Management Assn. v. London (City)*, the Superior Court addressed the constitutionality of municipal by-laws regulating or restricting residential tenancies. The Court held that such a by-law may not conflict with the provincial statute. To determine whether a conflict exists, the following inquiries must be made:

- a. Is it impossible to comply simultaneously with the by-law in question and the superior legislation (in this case the *Residential Tenancies Act*)? and;
- b. Does the by-law frustrate the purpose of the Ontario Legislature in enacting the superior legislation in issue?

Based on the above, it is staff's assessment that an outright prohibition on all renovictions, including legal renovictions, would be interpreted as frustrating the purposes of the RTA, and therefore is not within scope of Municipal authority. Additionally, prohibiting illegal renovictions municipally would be redundant, as it is already illegal in the RTA.

However, complimentary municipal regulation or by-law imposing requirements in addition to those of the RTA may be possible. As discussed further in this report, engagement with the Province is recommended to determine whether these should be implemented and if they were what would be the operational impacts to the City.

Existing City of Ottawa Programs and tools to prevent the further loss of affordable rental units

There are a number of existing programs and tools that indirectly affect the aftermath of a renovation, or seek to add to the affordable housing stock, but none that can directly interfere with renovations taking place. It is staff's assessment that there is currently not a specific program or tool to "prevent the further loss of affordable rental units". A detailed list of City programs that don't specifically relate to "renovictions" but relate to housing in general is attached as Document 3.

The City is also exploring opportunities to coordinate the resources and information available to the public with respect to renovations. Staff have started preliminary work with legal and community partners to explore developing materials and processes with respect to renovations.

Potential tool to prevent the further loss of affordable rental units

A review of any by-laws, policies or programs that may be used by other municipalities in an effort to, as proposed in the motion, "prevent the further loss of affordable rental units" was conducted. The review is outlined in Document 4.

Notably, staff have identified, as a potential tool, Section 99.1 of the *Municipal Act* which allows the City to prohibit "the *conversion* of residential rental properties to a purpose other than the purpose of a residential rental property", of 6 units or more, without a permit. The municipality may impose conditions on the permit and may require an agreement be registered on title.

This power would prevent a residential unit or building from being used as a business or turned into a condominium, unless a permit was granted by Council, or under delegated authority.

The City of Toronto uses the equivalent of s. 99.1 of the *Municipal Act* in its municipal code ([c. 667, Residential and Rental Property Demolition and Conversion Control](#)). This chapter prohibits full or partial demolition or conversion of residential and rental housing of 6 or more units without a permit issued by the City. Such applications go to City Council (although some can be approved under delegated authority) with notice to the tenants and nearby landowners.

Staff are not aware of a challenge to the legality of the Toronto approach, and further information would be required to determine how successful this approach has been in Toronto and what effects it has had there. The Toronto approach also explicitly permits the Chief Planner to issue permits that are conditional upon specific tenant protection measures being met and requiring that the units be replaced with units that are rented at similar rents.

Landlord Licensing

As part of the non-regulatory initiatives approved in the November 2019 *Report on Rental Accommodations Study and Regulatory Regime* ([ACS2019-EPS-GEN-0015](#)), staff considered an Ottawa Landlord Registry. The evaluation of efficiency, enforceability, and sustainability of landlord licensing, as well as the legal uncertainty surrounding municipal licensing of real estate activities noted above under “Legislative Context” and further discussed in Document 2, all lead staff to conclude that licensing is not the preferred regulatory solution for Ottawa.

Given a decision on this matter has already been reached by Council, staff are not revisiting this issue as part of this report.

DISCUSSION

Recommendation 1: Request the Mayor, on behalf of Council, write to the Minister of Municipal Affairs and Housing, asking the Province to protect existing tenants and affordable rental housing stock by updating the Residential Tenancies Act, 2006 and other relevant legislation such as the Building Code Act, 1992 with the objective to:

- a. **further prevent and prohibit instances of renovictions and protect existing affordable rental housing stock; and**
- b. **specifically address through legislative changes the instance specified in Motion 44/18 (City Council, November 25, 2020) when a landlord undertakes renovations to a rental property and then replaces the evicted tenants with those who would pay higher rents after the renovations are completed; and**

Council may request the Province undertake further updates to the *Residential Tenancies Act, 2006*, the *Building Code Act*, and other relevant legislation, with the objective to further prevent and prohibit instances of renovictions, and to protect the existing affordable housing stock. In some instances, it is less expensive to protect existing affordable housing stock than it is to build new units to replace them.

Conversations with the Province on whether they would entertain changes to Provincial legislation would confirm renovictions options for the City. Potential options include exploring whether the compensation requirements for tenants are adequate to offset additional costs incurred by a tenant who would need to relocate or exploring whether the landlord should have a cap on the amount of time they can take to complete renovations. Any changes to the RTA should also consider unit thresholds (6 or more units) for when certain policies apply, as to not have undue hardship on smaller landlords.

Once these discussions occur, Staff can report back to Committee and Council with an update via Memorandum or to seek further direction should the province be open to revising Provincial legislation that regulate renovictions.

Recommendation 2: Direct PREDD and CSSD Staff to prepare a proposal for the next City budget, as a joint-departmental work plan item, to explore the feasibility and identify potential resource implications of developing and adopting a By-law under Section 99.1 of the *Municipal Act*, to prohibit without replacement the full or partial demolition or conversion of residential and rental housing of 6 or more units without a permit issued by the City, possibly by amending the Demolition Control by-law

Staff added this recommendation for Committee and Council's consideration in light of the motion's mention of "preventing the loss of affordable rental units". It is Staff's

preliminary assessment that there is a low amount of conversion of residential rental housing to other uses, but a notable example is the development at [142-148 Nepean Street](#) (D07-05-21-0004), where three low-rise apartment buildings will have been demolished to make way for a parking lot. Staff understand that every unit counts and are therefore recommending a feasibility report under Section 99.1 of the *Municipal Act*.

The costs and benefits of adopting a by-law under Section 99.1 like that adopted by Toronto would require further study by Staff, and this would need to be considered as part of the overall workplans of affected departments.

If such a by-law were to be proposed, Staff would also need to consider amendments to the Demolition Control by-law to avoid duplication. Staff would further need to consider what conditions if any would be best to attach to approvals under such a by-law to achieve the goals of increasing housing affordability and protection of tenant rights while also ensuring that development and redevelopment of new housing is not unreasonably hindered. Another consideration will be on the new regulation's impact of vacant units being converted.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications.

FINANCIAL IMPLICATIONS

There are no direct financial implications.

LEGAL IMPLICATIONS

There are no legal impediments to the implementation of the report recommendations.

COMMENTS BY THE WARD COUNCILLORS

This is a city-wide report – not applicable.

CONSULTATION

Staff met with the City's Affordable Housing group, composed of community and non-profit organizations, and the Ottawa Small Landlord Association to present the proposed path forward.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications.

RURAL IMPLICATIONS

Renovictions are a City-wide issue that affect urban and rural areas. The recommendations do not have direct rural implications.

TERM OF COUNCIL PRIORITIES

This project addresses the following Term of Council Priorities:

- Thriving Communities

SUPPORTING DOCUMENTATION

Document 1 MOTION 44/18 (City Council, November 25, 2020)

Document 2 Overview of “Renoviction” under the *Residential Tenancies Act*, 2006

Document 3 Current City Tools and Programs in relation to, but not directly impacting, Renovictions

Document 4 Renovictions in Other Jurisdictions

CONCLUSION

The Planning, Real Estate and Economic Development and Community and Social Services departments support the recommendations to write to the Province asking for collaboration with Ontario municipalities to solve the pressing issue of renovictions which is regulated by the province.

The departments also support exploring the feasibility and resource implications of developing a new By-law under Section 99.1 of the *Municipal Act* to protect existing rental stock.

DISPOSITION

The Office of the City Clerk will prepare a letter for the Mayor to send to the province.

The Planning, Real Estate and Economic Development and Community and Social Services departments will explore the feasibility and resource implications of developing a new By-law under Section 99.1 of the *Municipal Act* to protect existing rental stock.

Document 1 – MOTION 44/18 (City Council, November 25, 2020)

Moved by Councillor M. Fleury

Seconded by Councillor K. Egli

WHEREAS on January 29, 2020, City Council unanimously endorsed a resolution that declared, "an Affordable Housing and Homelessness Crisis and Emergency"; and

WHEREAS on July 21, 2020, Royal Assent was given to Bill 184, being the *Protecting Tenants and Strengthening Community Housing Act*, 2020, which the Provincial Government stated would seek to end "renovictions", those evictions that occur when a landlord undertakes renovations to a rental property and then replaces the evicted tenants with those who would pay higher rents after the renovations are completed; and

WHEREAS on October 28, 2020 Council directed Mayor Watson to write to Ontario Premier Doug Ford and the Minister of Municipal Affairs and Housing seeking measures to ensure that no tenant in Ottawa would be evicted for households who cannot pay their rent, because of loss of income resulting from the COVID-19 crisis and, failing adoption of those measures, that provincial government restrict residential rental evictions due to tenants' inability to pay their rent due to COVID-19 related income losses;

THEREFORE BE IT RESOLVED THAT staff prepare a report for consideration by Committee and Council that would outline all the municipal tools available to the City of Ottawa to prevent or prohibit such "renovictions" in the City of Ottawa, including a review of any by-laws, policies or programs that may be used by other municipalities in an effort to prevent the further loss of affordable rental units.

CARRIED

Document 2 - Overview of “Renoviction” under the Residential Tenancies Act, 2006

The RTA is the primary legislation governing the relationship between landlords and tenants in Ontario. The RTA sets out responsibilities for landlords which include maintenance of the rented unit and not interfering with the reasonable enjoyment of the tenant with their unit.

Termination of Tenancies in accordance with the RTA:

A tenancy may only be terminated in accordance with the RTA (s. 37). Tenancy can either be terminated by agreement between the landlord and tenant, or by “notice”. Notice, in order to be legally valid, must be in the form approved by the Landlord and Tenant Board and must follow certain requirements for delivery. Notice may only be given by the landlord in certain instances:

- Notice may be given *before the end of the term* of the lease only where there has been a non-payment of rent, certain illegal acts, interference with reasonable enjoyment of other tenants, etc.
- The landlord may also terminate the lease *at the end of the term* where the landlord requires the unit for their own residence or that of a family member or the tenant has failed to pay rent or otherwise failed to meet their obligations under the *Act*. Additionally, a landlord may serve notice to terminate a tenancy at the end of a term for the purpose of renovating the unit, per s. 50:

50 (1) *A landlord may give notice of termination of a tenancy if the landlord requires possession of the rental unit in order to,*

(a) demolish it;

(b) convert it to use for a purpose other than residential premises; or

(c) do repairs or renovations to it that are so extensive that they require a building permit and vacant possession of the rental unit. 2006, c. 17, s. 50 (1).

Section 50 essentially permits “renoviction,” but the RTA requires that specific processes be followed.

For a s. 50 notice, the landlord must give at least 120 days’ notice.

The tenant has a right of first refusal to occupy the rental unit after the renovations are complete (s. 53(1)). The tenant must advise of the tenant's intent to exercise that right before vacating the unit (s. 53(2)). The rent must increase no more than what could lawfully have been charged if there had been no interruption in the tenancy (s. 53(3)).

Compensation for Tenants in the case of a legally permitted renovation

Pursuant to s. 54, for residential buildings **containing 5 or more units**:

- If the tenant exercises the right of first refusal (thus moving back into the unit after the renovation), the tenants are entitled to lesser of compensation equal to three months' rent or to the length of the time during which the unit is under repair/renovation
- If they decline to exercise the right of first refusal, the tenants are entitled to *either* an offer of a rental unit acceptable to the tenant or compensation equal to three months' rent.¹

As of March 31, 2021, a similar provision also exists in the RTA for buildings containing **less than 5 units**, providing for one months' compensation in these cases of termination due to renovation.²

RTA remedies for illegal renovation and for other non-compliance

Under s. 57 of the RTA a landlord may be subject to an order from the Landlord and Tenant Board if the Board finds that the landlord gave notice of termination in bad faith and the tenant vacated the unit as a result. The said order may include any of the following: require the landlord pay a specified sum to the former tenant for all or any portion of any increased rent that the former tenant has incurred or will incur for a one-year period after vacating the rental unit plus any reasonable out-of-pocket moving, storage and other like expenses; require the landlord to grant an abatement of rent; require that the landlord pay to the Board an administrative fine not exceeding \$25,000; and/or any other order that the Board considers appropriate.

¹ If they don't exercise the right of first refusal the compensation is an amount equal to three months' rent where the building has 5 or more units, or an amount equal to 1 month's rent where the building has less than 5 units. If they exercise the right of first refusal the amount is the lesser of the aforementioned amount or the length of the time during which the unit is under repair/renovation.

² Introduced by *Protecting Tenants and Strengthening Community Housing Act*, 2020, S.O. 2020, c. 16, Sched. 3, s. 12 (introduced as "Bill 184").

Further, it is a provincial offence for a landlord to contravene the RTA in one of the several ways listed in s. 233 and 234 of the RTA (including, among other things, harassing a tenant in order to induce the tenant to vacate the rental unit, recovering possession of a rental unit without complying with the requirements of the RTA, giving notice of intent to terminate a lease in bad faith, etc.). The Province has the sole jurisdiction to prosecute these offences in Provincial Offences Court. In 2020 the Province passed Bill 184, *Protecting Tenants and Strengthening Community Housing Act*, which increased the maximum fines for these offences to \$50,000 and \$250,000 for individuals and corporations, respectively.³

It is noted therefore that the RTA contains or contemplates remedies for tenants facing eviction as well as penalties such as increased fines for landlords who conduct illegal renovations.

³ The maximum fines of \$25,000 (in the case of a person other than a corporation) and \$100,000 (in the case of a corporation) set out in subsections 238 (1) and (2) were increased to \$50,000 and \$250,000, respectively.

Document 3 - Current City Tools and Programs in relation to, but not directly impacting, Renovictions

A detailed list of City programs that don't directly relate to "renovictions" but relate to housing in general below.

1. Housing and homelessness plan

The City is committed to developing a comprehensive homelessness prevention and diversion strategy, with a focus on housing loss prevention, that builds on the collaborative work of non-profit and cooperative providers, private sector landlords, community partners, and other City services that serve households in need. Currently Housing Help and Action Logement receives funding from the City to provide among a multitude of other services; counseling and support to explain tenant and landlord rights and responsibilities and providing tools to help search for housing on the private market as well as paralegal services for tenants appearing before the Landlord and Tenant Board, the Internal Review Panel, and other adjudicative bodies. Through informal partnerships with Legal Aid offices, they offer tenants detailed information through a variety of brochures that explain tenancy rights in Ontario written by Community Legal Education Ontario.

2. Regulatory by-laws related to property standards and property management

The community group ACORN has reported on concerns about landlords, leading up to service of renovation eviction notices, neglecting basic maintenance. It has been reported that as some of the tenants facing eviction accept monetary settlements and move out, the remaining tenants experience worsening conditions (i.e., increase in bug activity, lower standards of maintenance of common elements).

In Ottawa, there are several by-laws in place that address issues of property standards for rental properties, as follows:

The Rental Housing Property Management By-law (By-law 2020-225) was enacted in 2020 and came into force on August 31, 2021. This by-law creates specific requirements for rental housing properties with the goal of improving its overall quality City-wide. Among other things, owners of rental properties are required to create and maintain capital maintenance plans in order to monitor the state of essential infrastructure in rental housing and plan for its maintenance, repair, and replacement when necessary. The by-law requires landlords to provide information for tenants including specific details about fire safety, waste management, property maintenance

and pest control, including how to report problems to the landlord or City. This will ensure that tenants have the basic information they need to prevent problems before they do occur, and to address problems if they do occur, thereby increasing the chance of having a successful tenancy. Specific standards are imposed for landlords in terms of receiving and responding to urgent and non-urgent tenant service requests, with tools to assist in enforcement as required. The by-law also imposes enhanced pest management obligations, including the requirement for the creation and use of standing treatment plans for infestations of common pests and re-inspection requirements once a treatment has occurred. It is anticipated that these measures will improve the conditions in which tenants live and assist in preventing problems commonly related to rental properties.

The Property Standards By-law (By-law 2013-416, as amended) already enacts property standards for residential properties, including rental properties, so as to ensure a minimum state of repair of the property in question and the safety of occupants. These standards require the property owner to repair, maintain, and keep the property in accordance with these minimum standards and to take immediate action to eliminate any unsafe conditions. Tools to address non-compliance, such as orders, are provided. Key areas addressed by the standards include maintenance of building foundations, exterior walls, elevators, windows and doors, and roofs, as well as the structural stability of the building itself and of balconies, porches, and ramps. Interior walls, floors, bathrooms, HVAC equipment, and kitchens also must be maintained to the standard prescribed in the by-law. Outdoor areas of residential properties are also subject to prescribed standards, such as keeping yards free from refuse, objects that could cause a health hazard, unsafe structures, and overgrown landscaping. Amendments made to this by-law in 2020 have enhanced pest control requirements. In December 2019, Council enacted By-law 2019-429 to implement a \$500 re-inspection fee for any property where a Notice of Violation or Order to Comply for property standards has elapsed and the deficiency or violation remains. This administrative fee is in addition to any penalties (fines) issued to the property owner for the violation.

The City's Heat By-law (By-law 2010-210, as amended) creates obligations for the owner of a rental property to provide adequate heat for the rental premises.

The Property Maintenance By-law (By-law 2005-208, as amended) also imposes exterior property standards on a property owner. This by-law addresses issues such as clearing of waste and debris, accumulation of snow and ice or other items that may create a hazard, and grading of property to ensure proper drainage, among other

issues. These requirements assist in preventing the degradation of the property's exterior and ensuring the safety of occupants.

It is also worth noting that the RTA provides some guarantees to tenants regarding the quality of the premises they are renting. Landlords are specifically obligated to keep premises "in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards." The Landlord and Tenant Board can order a landlord who has not complied with this obligation to make repairs and can waive a tenant's rent or prohibit rent increases until the repairs are made.

3. Ontario Renovates Program

Ontario Renovates, a provincial program that is part of the Ontario Priorities Housing Initiative (OPHI) is administered by Housing Services and provides limited funding to qualifying landlords for modifications to improve accessibility of their existing unit(s) or building(s) and make them in compliance with the Accessibility for Ontarians with *Disabilities Act*, 2005. Council could choose to extend this program to qualifying landlords in order to keep units in a good state of repair, however funding for this program is limited (\$4.8M for 2021-22) and is also used to fund the development of new affordable housing, portable housing benefits, urgent and accessibility related repairs for low-income homeowners as well as accessibility modifications to community housing.

4. Information and education initiatives

Educational materials for both landlords and tenants have been developed and are available at <https://ottawa.ca/en/living-ottawa/rental-housing>, as part of the non-regulatory initiatives approved in the November 2019 *Report on Rental Accommodations Study and Regulatory Regime* ([ACS2019-EPS-GEN-0015](#)). Emergency and Protective Services has also developed guides for both landlord and tenants that are available for downloading and printing. It is anticipated that these resources will be of particular assistance for tenants who may be searching for information about how to make a service request, which regulations apply to their rental unit or tenancy, and where to find assistance. Stakeholders such as Ottawa ACORN, Legal Aid Ontario, and the Somerset West Community Health Centre have all identified through previous consultation that tenants are often unaware of the services available to them.

The educational materials and resource pages contain specific information on City of Ottawa by-laws affecting rental housing management and property standards, extensive

information on pest management, and contact information for internal resources for emergency housing and similar services. Templates and sample documents required in the Rental Housing Property Management By-law (noted above) are available for landlords to encourage compliance with applicable regulations in order to improve overall rental housing quality. Links to external sources of information are provided including the Province of Ontario's guide for the RTA and information on landlord and tenant rights and obligations, as well as the contact information for various agencies and groups providing information, assistance and services for both landlords and tenants. Stakeholders representing both landlord and tenant interests were consulted and have been involved in the development of these materials.

It is also noted that work is continuing for the development of an online searchable property standards database that would allow members of the public to search the property standards and maintenance history of a particular address in order to make informed decisions about where to rent, buy, or relocate. The development of this database is taking longer than expected due to staff capacity being diverted in part to emergency response of the Covid-19 pandemic and IT development work. It is expected that this database will be launched later in 2022 but an exact date is not available at this time.

5. *Inclusionary Zoning*

Although not directly related to renovictions, inclusionary zoning and Section 4.2.3. of the New Official Plan will contribute to the retention and additional supply of much needed affordable housing in the City.

Inclusionary zoning is permitted by sections 16(4) and 35.2 of the *Planning Act*. This tool permits the City to adopt zoning provisions which authorize "the inclusion of affordable housing units within buildings or projects containing other residential units," and provide "for the affordable housing units to be maintained as affordable housing units over time." This policy tool is limited to "protected major transit station areas" ("PMTSAs" - i.e., areas in the vicinity of rapid transit). To implement these zoning provisions an Official Plan policy permitting the use of inclusionary zoning is required, along with a housing market analysis.

The draft New Official Plan does have policies which will provide the basis for future enactment of Inclusionary Zoning in PMTSAs. PMTSAs are a discretionary tool for municipalities for the establishment of transit-supportive densities and uses in a defined area that surrounds rapid transit stations, and to which Inclusionary Zoning may be

applied. After the adoption of the New Official Plan by Council and its approval by the Ministry, the City's new Zoning By-law team will bring forward the regulations necessary to adopt Inclusionary Zoning in these areas. Section 4.2.3 of the new Official Plan also aims to protect existing rental housing stock and support production of more rental units by providing additional policy direction and conditions associated with development applications that would have the effect of removing six or more dwellings from the long-term rental market.

6. Demolition and Rental Unit Conversion Control

Section 33 of the *Planning Act* permits a municipality to prohibit the *demolition* of residential units without meeting certain criteria, including obtaining a demolition permit and entering into an agreement to re-build a similar or greater number of units within a specified time (or pay a fine). This power applies only to demolition of units and could not be used to prevent or prohibit renovations of units. Ottawa already has a demolition control by-law in effect, by-law 2012-377. To obtain a permit to demolish an existing residential use building within the area designated as a "demolition control area" (essentially, all of the urban area) the applicant ordinarily must first obtain building permits for a replacement building. Alternatively, the General Manager of the Planning and Growth Management Department has delegated authority to approve a demolition permit without a building permit for a new building being issued first, but has discretion to require, among other things, that the applicant enter into an agreement to rebuild on the property within a specified period of time. Thus, the existing by-law limits the ability to demolish existing residential stock without a plan to rebuild. The existing by-law does not however require an owner to rebuild with a similar or greater number of units or to meet affordability requirements for rent of those units.

Document 4 – Renovictions in Other Jurisdictions

Burnaby - Conditional rezoning based on providing additional tenant assistance

Staff are aware of a policy enacted by the municipality of Burnaby in British Columbia which ties tenant assistance to granting of a rezoning application. As discussed further below, Ontario municipalities do not have clear legislative authority to adopt a similar approach.

The Burnaby policy ([available here](#)) applies only to privately-owned, multi-family rental residential buildings with five or more dwelling units, excluding community housing. Further, the policy only applies where there is a rezoning application that impacts the applicable housing type and results in tenant displacement due to demolition or renovation. It requires a landlord to which the policy applies to provide either a replacement apartment during the renovations or a rent top-up for the difference in rent being paid by the tenant during the renovation, plus moving assistance or cash to pay for movers. The payment of these amounts is secured by a bond provided by the landlord and administered by the Planning department of the municipality. The adoption of the zoning by-law amendment would not be permitted until implementation of the tenant assistance plan under the policy was confirmed. Staff have found no reported appeal from a zoning by-law implementing this policy, so the legality of this approach in the BC context has not been tested.

According to a Burnaby municipal staff report related to the tenant assistance policy:

“Currently under Section 298(2) of the *Local Government Act* and Section 54(2) of the *Community Charter*, a local government is limited in its ability to require tenant assistance. Specifically, it may only require it as a condition of rezoning approval, but not of development permit, building permit.”

Unlike in British Columbia, the Ontario legislation contains no clear authority to permit a municipality to make rezoning conditional on provision of tenant assistance. The Ontario *Planning Act* and current regulations do not permit municipalities to enact conditional zoning by-laws⁴

⁴ Note that subsection 24 (16) of the *Planning Act* permits a municipality to permit a use subject to “prescribed conditions” (i.e., conditions set out in a regulation to the Planning Act) if a policy in the municipality’s Official Plan permits it. While conceivably a *Planning Act* regulation could provide that tenant assistance may be a condition to a rezoning in a residential zone, no regulation has yet been enacted by the Province to authorize the use of conditional zoning.

S. 37 of the *Planning Act* previously permitted the municipality to require, as a condition of a rezoning resulting in increased height or residential density, provision of community benefits pursuant to an agreement negotiated with the municipality. This authority has been replaced with the new Community Benefits Charge and the municipality will no longer have the power to require height and density bonusing agreements as of September 2022 pursuant to the transition provisions in the Act.

Accordingly, there is no clear authority under which the City could implement a policy such as the Burnaby tenant assistance policy.

Toronto – regulation of partial demolition or conversion of residential and rental housing

The City of Toronto has a chapter in its municipal code ([c. 667, Residential and Rental Property Demolition and Conversion Control](#)) which is enacted pursuant to section 111 of the *City of Toronto Act*, which is the equivalent of s. 99.1 of the *Municipal Act*. This chapter prohibits full or partial demolition or conversion of residential and rental housing of 6 or more units without a permit issued by the City. Such applications (except limited applications which may be approved under delegated authority) go to City Council with notice to the tenants and nearby landowners. Council may approve the permit with or without conditions. Such conditions may include:

- A. Conditions with respect to the impact on the supply of rental housing or tenants, for example: (1) A requirement that the owner of the residential rental property notify any tenants, who reside in rental units affected by the changes permitted under the approval, of the relevant provisions in the Residential Tenancies Act, 2006. (2) In the case of a demolition, requirements to replace the rental units with rental units at similar rents, and for tenant relocation and other assistance, including the right to return to the replacement rental housing. (3) In the case of a conversion to a condominium, requirements relating to the cost impacts on tenants.
 - B. Conditions with respect to the applicant's entitlement to claim or act under any of the following until the conditions imposed have been satisfied or secured by an agreement registered on title to each property to which the agreement relates, to the satisfaction of the Chief Planner: (1) A permit under Subsection 8(1) or section 10 of the *Building Code Act*, 1992/28 for construction, demolition or
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conversion of a building. (2) A demolition permit under Section 33 of the *Planning Act* 29 (3) A consent or permit to alter part of a property or to demolish or remove a building or structure under Section 34, 34.5 or 42 of the *Ontario Heritage Act* 30 (4) Approval or registration of a description for a proposed condominium under Section 5 of the *Planning Act*, or an exemption from approval for a condominium, under Section 9 the *Condominium Act*, 1998. 31 (5) A consent under Section 53 of the *Planning Act*, except for provisional consent that is conditional on receiving a Section 111 permit under this chapter.

- C. A requirement that other conditions to the approval shall be secured by an agreement with the City, that the agreement may include restrictions on the transfer, charge or other dealings with the lands unless the transferee, chargee or other party enters into a direct agreement with the City to assume all obligations of the original owner, and that all restrictions and agreements shall be to the satisfaction of the Chief Planner and City Solicitor.
- D. A requirement that the applicant and successive owners of the residential rental property shall provide information from time to time sufficient to provide verification that the terms of the agreement are being met.

Staff are not aware of a challenge to the legality of the Toronto approach described above, and further information would be required to determine how successful this approach has been in Toronto and what effects it has had there.

The Toronto approach is broader than that under Ottawa's current Demolition Control By-law as it applies to conversion of units as well as partial demolition and interior renovations. The Toronto approach also explicitly permits the Chief Planner to issue permits that are conditional upon specific tenant protection measures being met and requiring that the units be replaced with units which are rented at similar rents.