

Clause embodied in Report No. 3 of the Planning and Transportation Committee, as adopted by the Council of the City of Toronto at its meeting on May 18, 19 and 20, 2004.

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Protocol for Enforcement of Property Standards and Other By-laws in Residential Rental Apartment Buildings

(City Council on May 18, 19 and 20, 2004, amended this Clause by amending Appendix 'A', entitled "Protocol for Enforcement of Property Standards and Other By-laws in Residential Rental Apartment Buildings", attached to the report dated April 5, 2004, from the Commissioner of Urban Development Services, as follows:

(1) *by amending the preamble:*

(a) *by inserting the following new recital between the third and fourth recitals:*

"And Whereas there may be circumstances in which co-operation between the tenant and the landlord does not exist;"; and

(b) *by adding the following new recital:*

"And Whereas there are circumstances which require that enforcement be done on a proactive, rather than a complaint basis. Examples of such circumstances include buildings with a history of non-compliance with standards or repeated concerns about deficient maintenance or management.";

(2) *by inserting the words "and to provide options for enforcing Chapter 629 in a proactive way" at the end of the first sentence under "Purpose", so that this section shall now read as follows:*

"Purpose:

To define the procedure for the handling of complaints by tenants concerning possible violations to the Code and in particular, Chapter 629 (Property Standards) of the Code as it relates to residential apartment buildings and to provide options for enforcing Chapter 629 in a proactive way. A separate protocol is applicable to the enforcement of property standards in properties owned by the Toronto Community Housing Corporation.";

(3) *by amending the seventh paragraph under "Making a Complaint" to read as follows:*

"Where there appears to be legitimate concerns regarding communication, the Municipal Licensing and Standards Officer will take the complaint."; and

- (4) *by adding a new section, after the section entitled “Making an Inspection”, as follows:*

“Proactive Enforcement:

In circumstances where a building has a history of non-compliance or inadequate maintenance, the Municipal Licensing and Standards Officer, in consultation with the Ward Councillor, shall initiate a proactive mechanism for enforcement which is intended to achieve compliance on an ongoing basis, rather than relying on the complaint mechanism.”)

The Planning and Transportation Committee recommends:

- (1) **the adoption of the report (April 5, 2004) from the Commissioner of Urban Development Services; subject to amending the second paragraph under the portion of Appendix “A” entitled “Access to Property Standards Notices and Orders”, by adding the words “or tenants’ associations”, so that it now reads as follows:**

“Access to Property Standards Notices and Orders

In a form that complies with the Municipal Freedom of Information and Protection of Privacy Act, a copy of a Notice or Order is to be made available to a tenant as follows:

Unit Notices and Orders -Where a Notice or Order is issued with respect to a rental unit, a copy of the Notice or Order shall be forwarded to the tenant at the same time, for their information. Upon request, a copy of the Notice or Order shall also be sent to the tenant’s legal representative or agent or tenants’ associations.

Common Area Notices and Orders - A copy of the Common Area Order shall be posted in a conspicuous location in the building, for the information of all tenants. Where a Notice or Order is issued with respect to the common areas of the building, a copy of the Notice or Order shall be forwarded to a tenant or their legal representative or agent, upon request.”;

- (2) **that Members of Toronto City Council shall be entitled to any and all copies of Notices or Orders upon request; and**
- (3) **that the Commissioner of Urban Development Services be requested to develop a standard maintenance request form and that this form be made available to tenants on the City’s web site.**

The Planning and Transportation Committee submits the following report (April 5, 2004) from the Commissioner of Urban Development Services:

Purpose:

To provide a report on the protocol for enforcement of property standards and other bylaws in rental residential apartment buildings.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendations:

It is recommended that:

- (1) Council adopt the Protocol for Enforcement of Property Standards and Other By-laws in Residential Rental Apartment Buildings (Appendix A);
- (2) staff develop a communication plan for the distribution of the Protocol; and
- (3) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

City Council, at its meeting of January 27, 28 and 29, 2004, adopted in principle, a framework strategy to ensure that privately-owned, multi-unit residential buildings are maintained in accordance with the provisions of the Toronto Municipal Code. As part of the strategy, the need for a protocol was identified similar to that in place for Toronto Community Housing Corporation (TCHC) buildings. Council also requested that staff advise on the applicability of the initiatives to other public housing as well as to the non-profit housing sector.

Comments:

Staff have met with tenants to develop a protocol similar to that in place for TCHC properties. This protocol can similarly be applied to other forms of rental housing such as not-for-profits, co-ops, as well as rental units in condominium buildings. The protocol sets out complaint priorities and gives examples of situations which may potentially jeopardize the health and safety of the tenants and are responded to as an emergency by inspections staff.

Tenants are always encouraged to contact their landlord, or his/her agent (i.e., building manager), to advise them of the problem, in advance of logging a complaint with Municipal Licensing and Standards (MLS). However, situations where this may not be applicable are also described for the benefit of both staff and tenants. Procedures to ensure that tenants (or their agents) receive copies of Notices and Orders as well as information about possible appeals are also included in the protocol. Staff are working with representatives of the Greater Toronto Apartment Association to develop a standard maintenance request form, which can be distributed to tenants as part of the protocol. Further reports on the proposed call centre for complaints and the web disclosure programme will also address the further distribution of the protocol. The proposed website for information on violations will provide an opportunity to make copies of the protocol readily available and reduce the need to send hard copies of information to tenants when there are violations or appeals to Orders.

In order to make the protocol more accessible to tenants, it is suggested that the protocol be summarized in an easy-to-read format and, where possible, translated and distributed as widely as possible.

Conclusions :

The adoption of a protocol for the enforcement of property standards and other bylaws in rental residential buildings will provide staff, tenants and landlords with clear guidelines as to the protocol for enforcement of property standards bylaws. This protocol will be made available to the public using the City website and, where possible, be translated and include a sample of a maintenance request form for use with private landlords.

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List of Attachments:

Appendix A - Protocol for Enforcement of Property Standards and Other Bylaws in Residential Rental Apartment Buildings

Appendix 'A'
Protocol for Enforcement of Property Standards and
Other By-laws in Residential Rental Apartment Buildings

Whereas Council expects all landlords to meet a high standard of compliance with the Toronto Municipal Code;

And Whereas all tenants are entitled to the protection of the Property Standards Bylaw and other provisions of the Code;

And Whereas it is acknowledged that repairs are best accomplished through a process of co-operation between the tenant and the landlord;

And Whereas the Municipal Licensing and Standards Division of Urban Development Services responds to complaints on a prioritized response scale based upon High, Medium and Low;

And Whereas a High priority is an Emergency situation that means a circumstance which poses an immediate danger to the health or safety of any person;

And Whereas examples of Emergencies may include such items as broken windows, broken elevators (where there is only one elevator in the building), broken intercoms and locking devices on unit and common area entrances, missing rails on balconies, etc., situations will be evaluated individually to determine if there is a health and safety concern.

Purpose:

To define the procedure for the handling of complaints by tenants concerning possible violations to the Code and in particular, Chapter 629 (Property Standards) of the Code as it relates to residential apartment buildings. A separate protocol is applicable to the enforcement of property standards in properties owned by the Toronto Community Housing Corporation.

Making A Complaint:

In general, the tenant should place requests or complaints with respect to maintenance or repair issues either with the landlord or their agent; i.e., property manager or superintendent.

Requests or complaints with respect to maintenance or repair issues should, if possible, be in writing, and on a 'Maintenance Request Form' provided by their landlord, if available. The tenant should retain a copy of any request or complaint.

Where a complaint is received by Municipal Licensing and Standards, tenants will be asked if the landlord has been notified of the repair request.

If the tenant has not contacted the landlord or their agents, Municipal Licensing and Standards will encourage the tenant to make their complaint to the landlord in writing, if possible.

If a complaint concerns a health and safety matter, the complaint will be taken and Municipal Licensing and Standards staff will contact the landlord immediately, and arrange for an inspection as soon as possible.

Tenants will be advised that the landlord must be given a reasonable time to complete the repairs, dependent on the assessed priority.

Where there appears to be legitimate concerns regarding communication, the Municipal Licensing and Standards Officer will exercise good judgement in taking the complaint.

Where the tenant indicates that a request or complaint was filed with the landlord (the complaint not being related to health and safety) and the tenant has not been contacted by the landlord as to the findings and what action, if any, will be taken to resolve the matter, Municipal Licensing and Standards staff will contact the landlord to enquire as to the status of the matter.

If the landlord has taken no action to resolve the matter, Municipal Licensing and Standards staff will arrange for an inspection as soon as possible.

Making an Inspection:

The Officer will inspect the premises and, in addition to confirming the specifics of the complaint, identify any other apparent violations of any other applicable by-law. The Officer will pay special attention to any apparent health and safety deficiencies; i.e., balcony guards, etc.

If any of the components require substantial repair, the Officer will look at the entire building and assess which elements should be replaced.

Where a health or safety issue is evident, an Order to Comply will be issued detailing the health and/or safety issues and any other deficiencies noted during the inspection.

Where there are no health or safety issues, the Officer will, at the Officer's discretion, issue either a Notice or an Order to Comply.

Where there is a demonstrated history of non-compliance, the Officer will proceed directly to issue an Order to Comply.

The Officer will monitor the work using various methods including contacting the landlord and tenant, and conducting follow-up inspections when necessary.

When advised that repairs have been made, the Officer will arrange for an inspection to determine whether or not repairs have been done in a workmanlike manner and the by-law(s) have been complied with.

Tenants shall assist the Officer in making arrangements for a unit inspection to determine if there is compliance with the bylaw in a timely fashion.

In the event compliance cannot be obtained or if work required is not completed within a reasonable amount of time and/or in a workmanlike manner, Municipal Licensing and Standards will initiate appropriate enforcement proceedings.

Access to Property Standards Notices and Orders:

In a form that complies with the Municipal Freedom of Information and Protection of Privacy Act, a copy of a Notice or Order is to be made available to a tenant as follows:

Unit Notices and Orders -Where a Notice or Order is issued with respect to a rental unit, a copy of the Notice or Order shall be forwarded to the tenant at the same time, for their information. Upon request, a copy of the Notice or Order shall also be sent to the tenant's legal representative or agent.

Common Area Notices and Orders - A copy of the Common Area Order shall be posted in a conspicuous location in the building, for the information of all tenants. Where a Notice or Order is issued with respect to the common areas of the building, a copy of the Notice or Order shall be forwarded to a tenant or their legal representative or agent, upon request.

Notifying Tenants of Appeals:

Where an appeal has been made to the Property Standards Committee, the secretary of the committee shall send a copy of the Notice of Hearing to all occupants that were served with a copy of the Order. Contact information will be provided to the secretary of the committee by staff of Municipal Licensing and Standards.

Where an appeal has been taken to the Superior Court, the City Clerk shall send a copy of the appointment for the hearing of the appeal to all occupants that were served with a copy of the Order.

The Planning and Transportation Committee reports, for the information of Council, having also had before it a communication (April 19, 2004) from Ms. Barbara Hurd, Member, Tenant Advisory Group, Municipal Issues Sub-committee respecting the proposed protocol for enforcement of property standards and other by-laws.

The following persons appeared before the Planning and Transportation Committee in connection with the foregoing matter:

- Mr. Brad Butt, Executive Director, Greater Toronto Apartment Association, and filed a written submission with respect thereto; and
- Ms. Barbara Hurd, Kensington Bellwood Legal Services.