

Date: November 8, 2021	Originator's files:
To: Chair and Members of Budget Committee	
From: Geoff Wright, P.Eng, MBA, Commissioner of Transportation and Works	Meeting date: November 22, 2021

Subject

Apartment Building Standards and Maintenance Pilot Program

Recommendation

1. That a by-law be enacted to regulate the renting of apartment building rental units and require registration of apartment building operators, including the implementation of an administrative penalty system, as outlined in the report from the Commissioner of Transportation and Works dated "November 8, 2021" and entitled "Apartment Building Standards and Maintenance Pilot Program".
2. That an annual registration fee of \$18.25 per rental unit for Apartment Building Operators, effective July 4, 2022 be established.
3. That the 2022 complement for Enforcement be increased to include 10 contract capital staff. All 10 positions will be funded through Capital with start dates varying as detailed in the report from the Commissioner of Transportation and Works dated "November 8, 2021" and entitled "Apartment Building Standards and Maintenance Pilot Program".
4. That a new capital project PN 22-092 "Apartment Building Standards Pilot Project" be established with a gross budget of \$3,707,300 and net budget of \$300,800 and that funding be allocated from Capital Reserve Fund Account #33121.
5. That funding of \$300,800 be transferred from Capital Reserve Fund Account #33121 to PN22-092 "Apartment Building Standards Pilot Project".
6. That all necessary by-laws be enacted.

Executive Summary

- In 2019, staff were directed to report back on the feasibility of a City-wide proactive apartment building standards and maintenance program.
- Between June and August 2021, staff conducted community engagement, which was composed of four virtual community engagement sessions and an online survey. Participants were largely supportive of the program.

- Staff propose a five year Pilot Program, beginning in 2022. The Pilot Program will cover 337 buildings, representing 30,322 units, in the City, that are two stories or more and six or more units.
- The Pilot Program will include registration, scheduled inspections and enhanced compliance requirements for building operators in a new By-law. The Pilot Program will be supported by a dedicated team of Enforcement staff.
- In years 2022 & 2023, the Pilot Program will be funded by registration fees and tax capital, but in years 2024-2026 the Pilot Program will be fully funded through registration, evaluation and audit fees.
- The five year Pilot Program gross cost of \$3,707,300 will be mainly offset by \$3,406,500 from registration and inspection revenues. The net cost to the City is \$300,800.

Background

In November 2019, Council directed staff to report back with recommendations regarding a Citywide Program that could include, but not be limited to: an enforcement by-law to register and proactively inspect rental apartment buildings by City staff; standards imposed for owners and operators of apartment buildings; and an education and awareness initiative for both owners and tenants. COVID-19 has delayed the program feasibility study but staff have used this period to review existing internal processes and conducted a scan of practices from other municipalities and organizations.

The purpose of this report is to assess the need and viability of a Citywide Apartment Building Standards & Maintenance Program (the “Program”) in Mississauga. Included in the scope of a potential program are 337 all purpose-built rental apartment buildings (“apartment buildings”) in Mississauga. This encompasses buildings that are two or more stories and six or more units representing 30,322 units. This includes private buildings and non-profit/social housing providers including those that belong to Peel Region.

Secondary suites, lodging houses, condominiums, long-term care homes and retirement homes and co-operatives and residential buildings registered as Peel Condominium Corporations are out of scope for the Program.

Present Status

Between 2017 and 2020, Enforcement staff investigated 1384 complaints in the 337 apartment buildings in the City. The most common complaint types include exterior and interior condition of a building structure, exterior condition of property, mould and water damage in a rental unit and inadequate temperature in a rental unit (Appendix 1).

This averages to be 346 complaints per year among 337 apartment buildings. However, it is possible that tenants may be reticent to submit complaints due to concerns about landlord retaliation, resulting in an artificially low number of complaints.

Current Response Service Level

Currently, building maintenance concerns are primarily addressed by Enforcement staff using a complaint driven model that only requires minimum standards be met; however no preventative maintenance measures are mandated. The primary means to address building maintenance concerns is the Property Standards By-law 654-98, which contains provisions that address interior and exterior building maintenance standards. Staff may also use the Adequate Temperature By-law 110-18, the Debris and Anti-Littering By-law 0219-1985 and the Noise Control By-law 360-79 to address maintenance related complaints.

Regional and Provincial Responsibilities

Legislation surrounding housing, construction and maintenance standards are a shared responsibility among lower and upper tier municipal governments and the provincial government. In addition to municipal by-laws, apartment buildings must comply with provincial legislation including the *Residential Tenancies Act*, the *Building Code Act, 1992* and the Ontario *Building Code*. All building owners must also comply with provincial legislation such as the *Residential Tenancies Act, 2006*, *Accessibility for Ontarians with Disabilities Act, 2005* and the Ontario *Human Rights Code*. See Appendix 2 for more information on provincial responsibilities.

Peel Region Community Housing

Additionally, Peel Region, as the Consolidated Municipal Service Manager through the *Housing Services Act, 2011* is responsible for system planning and oversight and is a significant funder of Peel's community housing system. Peel's responsibilities as Service Manager includes oversight and administration of 46 community housing providers in addition to Peel Living, Peel's local housing corporation, and regionally owned housing. Their services include inspection and complaint response service levels for their sites. In total this represents 3087 units and 28 buildings that would fall within the realm of this project.

Comments

JURISDICTIONAL SCAN

Staff surveyed eight jurisdictions on their programs and by-laws that pertain to apartment building standards maintenance (Appendix 3). Of the jurisdictions examined, only Toronto has a program – RentSafeTO – although London is reviewing the feasibility of implementing their own program. However, some jurisdictions have some of the elements of a program. For instance, Hamilton does proactive inspections and audits, while Ottawa and Waterloo have by-laws that specifically relates to apartment buildings or rentals.

Toronto's RentSafeTO Program

The RentSafeTO program is the first of its kind in Canada, and builds on the City of Toronto's previous Multi-Residential Apartment Buildings program. RentsafeTO came into effect in 2017 and ensures apartment building owners and operators comply with building maintenance standards. RentSafeTO applies to apartment buildings with three or more storeys and 10 or

more units. Owners/operators of apartment buildings are required to register and comply with the requirements under the RentSafeTO program, which includes developing plans for cleaning, waste management and electrical maintenance and informing tenants of building matters through a tenant notification board.

RentsafeTO has a dedicated team of approximately 35 staff, including 28 Municipal Law Enforcement Officers and an annual program budget of approximately \$5,181,500. The RentSafeTO program is funded 65% through program fees and 35% through tax base and has an annual registration and renewal fee of \$11.24 per unit. As of October 2019, 3,446 buildings were registered with the City of Toronto. In the first year of the program, staff evaluated registered buildings. A total of 68 buildings (2%) did not pass the evaluation and were subject to an audit. In the second year of the program, staff re-evaluated 1,801 of the lowest scoring buildings from the first year. Buildings evaluated in both years scored an average of 12% higher in the second year. Through the audit process, RentSafeTO staff worked to rectify 3,305 deficiencies and laid 338 charges for non-compliance with 194 convictions.

COMMUNITY ENGAGEMENT

Engagement Sessions

Between June and August 2021, staff conducted community engagement, which was composed of four virtual community engagement sessions and an online survey. Approximately 39 total members attended the four virtual Community Engagement Sessions (Appendix 4). Two of the sessions were targeted towards tenants, one was for advocacy groups and one was for building owners and operators and non-profit service providers. Staff provided attendees with a presentation on the proposed program and facilitated a group discussion to receive participants' input and provide participants with an opportunity to ask questions.

Participants representing tenants and advocacy groups were largely supportive of the proposed program, while owners/operators questioned the need for a program in Mississauga. A theme that emerged from all groups of participants was the need to develop accountability mechanisms for landlords and tenants to ensure that each party upholds their responsibilities to care for rental units.

Tenants raised concerns about the aging building stock in Mississauga, landlord issues addressed through the Landlord Tenant Board and the needs for multiple communication channels for tenants to voice their concerns. Advocacy group representatives expressed concern that tenants would bear the costs of the program and shared that fear of landlord reprisal is a common concern among tenants.

Building owners and operators were generally unsupportive because they felt that sufficient controls are already in place and that the program would be redundant. Some owners and operators suggested that the City should focus its efforts on addressing 'bad actors' instead of treating all buildings as the same. However, if a program is implemented, owners and operators

recommended that the program mirror Toronto's RentSafeTO program as much as possible because consistency between jurisdictions makes their operations easier.

Survey Results

Staff also conducted an online survey, which was available between May 25 and July 31, 2021. The survey received 144 responses (Appendix 4). The majority of respondents (70.8%) were tenants, followed by residents (18.1%), owners or representatives (9%) and advocacy groups (.7%). The survey asked respondents about their concerns with the building they live in, their satisfaction with the current process, whether there is a need for a program and the most important factors to consider. Respondents were overwhelmingly in favour of the need for a program. Of the 144 respondents, only seven (4.9%) said there wasn't a need for a program

PROPOSED PILOT PROGRAM

Program Objectives

To ensure that the Pilot Program meets the needs of residents and addresses apartment building property standards issues, the following principles were used to guide the development of the Pilot Program:

- Promote consistent maintenance standards
- Conserve rental stock
- Ensure tenant health and safety
- Enhance tenant engagement
- Support housing choice
- Align with Housing Strategy

Mississauga's vacancy rate of 2.4% and high average rents reduce housing choice and limit mobility for tenants. For many residents, especially those on fixed or low incomes such as seniors and individuals with a disability, moving means an increase in rent that they cannot afford. The low vacancy rate also means that landlords can be selective about which tenants they choose, which results in competition for a limited supply of rental units. As a result, some tenants feel compelled to accept substandard housing and are apprehensive about exercising their rights as tenants due to fear of eviction.

This is a symptom of a lack of affordable housing, which the City is addressing through the City Housing Strategy and the Official Plan Review. While an Apartment Building Standards Maintenance Pilot Program will not increase the number of rental units or address housing affordability it will help ensure that current rental units meet a minimum standard. This will maintain existing rental stock and support housing choices in Mississauga's neighborhoods. The Program will engage landlords and building management to encourage compliance, which is aligned with Housing Strategy Action 34 of providing landlord education on regulations. It will also create a database of rental operators in the City and engage with rental operators and tenants which will support Actions 35 and 39 of the Housing Strategy.

Based on these overarching trends and the results from the community engagement, staff recommend moving from a complaint based model to a broader and more holistic proactive inspection and response model. This would take the form of a program similar to RentsafeTO.

Pilot Program Overview

Staff propose a five year Pilot Program which, once fully implemented, will be a 100% cost recovery program. In Years 2022-2023, the Pilot Program will be funded by registration fees and tax capital, but in years 2024-2026 the Pilot Program will be fully funded through registration, evaluation and audit fees (Appendix 6). Program development and registration will begin in 2022 followed by initial building evaluations through to 2023. Years 2024-2026 will be a re-occurring cycle of building evaluations and audits based on the results from the initial evaluations. Staff will report back on the status of the Pilot Program in 2023 and report back with their final recommendations to General Committee in 2025.

The Pilot Program will cover 337 buildings, representing 30,322 units, in the City, that are two stories or more and six or more units. The objective of the Pilot Program is to ensure apartment buildings are well-maintained, for a more liveable community. To achieve this, the Pilot Program will include registration, scheduled inspections and a new By-law with enhanced compliance requirements for building owners and property managers. The Pilot Program will be supported by a dedicated team of Enforcement staff. The new Pilot Program will strengthen enforcement of City by-laws, enhance tenant engagement and access to information and promote the preventative maintenance of apartment buildings.

Fee Exemption – Region of Peel, Peel Living and Peel Community Housing Providers

Pilot Program fees will be waived for apartment buildings owned by the Region of Peel, Peel Living and the Region's community housing providers. The Region's Housing Services staff, as well as Peel Living staff, will still provide inspection data that will meet the City's building evaluation/audit requirement. As an industry expert, Regional staff will provide technical assistance and partner with the City to strengthen the Pilot Program. For example, Peel, as Service Manager, has in-house engineering and technical expertise that will be leveraged to assist in the assessment of apartment building capital (state of good repair) plans. Peel Region also ensures that assets within its community housing system are maintained in a state of good repair and works with its housing providers to ensure long-term viability through compliance and operational reviews.

By-law Overview

The proposed Pilot Program will require a new Apartment Building Standards and Maintenance Pilot Program By-law to regulate preventative maintenance measures. The key by-law provisions that would be introduced through an Apartment Building Standards and Maintenance Pilot Program By-law are summarized below:

Key by-law provisions to be introduced in Apartment Building Standards and Maintenance Pilot Program By-law	
Provision	Description of Proposed Changes
Registration	All owners will be required to register their apartment buildings with the City. Once registered, owners will be required to renew their registration annually and pay a fee, based on the number of residential rental units.
Tenant Service Request Process	Identify a minimum standard that owners or operators must meet when receiving, responding to and tracking tenant service requests.
Tenant Notification Procedures	Require all owners or operators to erect or install a notification board in an accessible location to tenants and prospective tenants that contains important information relating to building maintenance, operations and emergency information.
Pest Management Plan	Require all owners or operators to develop and implement preventative pest management practices through the use of a licensed operator at regular intervals.
Waste Management Plan	Require all owners or operators to develop a plan to comply with the Region of Peel's garbage, recycling and organics storage and disposal requirements along with the City's existing By-law requirements relating to garbage and debris storage and disposal.
Cleaning Plan	Require all owners or operators to meet minimum preventative cleaning standards and have a process in place to address planned and unplanned cleaning activities.
Certified Tradesperson; use of	Require all owners or operators to demonstrate that they have retained or used the services of a certified tradesperson, where required by law.
State of Good Repair Plan	Require all owners or operators to have, maintain and keep current a comprehensive forecast of capital element and common element repairs and improvements.
Voluntary List of Tenants Requiring Additional Assistance	Require all owners or operators to maintain a contact list of tenants who may require additional assistance during periods of evacuation or temporary discontinuance of vital services.
Electrical Maintenance Plan	Require all owners or operators to create and maintain an electrical maintenance plan in collaboration with a Licensed Electrical Contractor with a valid ESA/ECRA licence.
Vital Service Disruption Plan	Require the development of a plan to address all planned and unplanned vital services disruptions.
Compliance with Applicable Health Regulations	Require all owners or operators to operate in accordance with all applicable by-laws and advice, recommendations and instructions issued by the Office of the Chief Medical Officer of Health, or another public health official.

Record Keeping Obligations	Require all owners or operators to create and retain all records necessary to show compliance with the by-law requirements.
Audits & Regular Site Visits	City staff will conduct regular evaluations and audits of buildings to confirm compliance with municipal by-law regulations.
Prohibition on Renting Non-compliant Rental Units	Require all confirmed property standards orders to be complied with prior to renting a rental unit to a new tenant.
Penalty and Offences	A progressive system of penalties and fines in the By-law will incorporate administrative penalties not exceeding \$500 to be set out in the City's Licensing Administrative Penalty By-law for failure to comply with certain provisions of the By-law, and fines not exceeding \$100,000, upon conviction, for contraventions of the By-law where charges are laid pursuant to the <i>Provincial Offences Act</i> .

Registration and Licensing Process

Registration process

During the Pilot Program, building owners will be required to register by completing a registration form and mailing or emailing it to Compliance Licensing Enforcement or submitting in person. The registration form will ask for business information, building information and contact information. Building owners will also be required to provide ownership information, payment and insurance information. Staff will review the applications and ensure that the information is accurate.

Registration fees

Fees for the Pilot Program will be determined by the number of units per buildings and will be set to recover the cost of the program. The fee will be \$18.25 per unit, except for Region of Peel, Peel Living and community housing provider sites, whose fees will be waived. This registration fee is relatively high in comparison to Toronto's fee of \$11.24 per unit. However, the RentSafeTO program is funded through approximately 65% in fees and 35% in tax. Further, Toronto is able to benefit from economies of scale. There will be an initial three month grace period for buildings to be registered. Unregistered buildings will be subject to enforcement action, which could include penalties or fines.

Service Levels

Proactive Building Evaluation and Audits

During the Pilot Program, staff will conduct proactive building evaluations to assess whether buildings are meeting the program standards. Staff will evaluate one-third of apartment buildings in 2022 and two-thirds of buildings in 2023. Evaluations will be pre-scheduled inspections of common areas. Buildings will be scored based on their compliance with Pilot Program requirements. Similar to RentSafeTO, depending on the score, buildings will be re-evaluated in one, two or three years. Enforcement action will be taken against any health or safety-related violations to bring the building into compliance. Buildings that do not meet the minimum score

will be subject to a more comprehensive audit. Scoring will be developed during the program development phase of the Pilot Program.

Audits will be pre-scheduled and building operators will be required to be present. Audits are expected to take thirty inspection hours per building and will include a tenant engagement component, where tenants are able to share their concerns about the building. Building owners will be charged an audit administrative fee and an hourly audit inspection fee in order to recoup costs. Staff will identify deficiencies and generate Orders to Comply and Notices of Contravention, as applicable, within seven days of the Audit. If the apartment buildings are not brought into compliance within the allotted time frame, escalated enforcement will be taken.

Complaint Response

Municipal Law Enforcement Officers (MLEOs) will continue to respond to complaints within five business days and within one day for vital services complaints. As applicable, staff will coordinate with internal and external stakeholders such as Planning and Building, Fire and Emergency Services and Peel Public Health to ensure that complaints are addressed.

Resource Requirements

Additional staffing will be required for Program development and operational support, registration, building evaluation and audit. Staff are proposing 10 contract FTEs in 2022 in order to implement the Program and conduct building evaluations and then six of the FTEs from 2024-2026 to maintain the Program (Appendix 7).

Education & Awareness

As seen through community engagement, there is a low level of awareness of the role the City can play in maintaining apartment building standards. Public awareness will be an important component of the Pilot Program and is pivotal to its success. The goal of awareness will be two-fold: to educate tenants on the Program and the role they can play, and to reach out to building operators and landlords to educate them on their responsibilities. This may include a variety of paid and unpaid tactics such as: a dedicated webpage for tenants with information on the process and timelines; paid ads on social media; targeted mail outs to tenants; email outreach to affected organizations; and, training and information sessions with tenants and building operators.

ASSESSMENT

In order to determine whether a permanent program is warranted, staff have developed evaluation criteria to measure the Pilot Program's effectiveness. Success of the Pilot Program will be evaluated through four measures:

1. Registration
2. Building evaluation and audit
3. Tenant engagement
4. Compliance of registered buildings with Apartments Building Standards and Maintenance Pilot Program By-law requirements

Staff will report back to Council in 2025 on these measures, which will be used to determine whether a permanent Program is warranted. See Appendix 8.

Financial Impact

The projected revenue associated with Apartment Building Standards and Maintenance Pilot Program (ABSMPP) is \$3,406,500 over the five years (2022 to 2026). Revenue will offset the majority of the expenditures, which are projected to be \$3,707,300 over the same period.

These expenditures are related to staffing costs for project leadership, analysis, administration and inspection. Also included in the projection are additional costs for equipment, IT support, and associated inspection and mileage expenses. The five year total net cost for this project is projected to be \$300,800 which is cost to the City in years 2022 and 2023 and will be funded from Capital Reserve Fund Account # 33121 (See Table 1).

Staff are recommending a full cost recovery model for the Pilot Program, versus the other budget scenarios outlined in Appendix 9.

Table 1:

Expense Categories	2022 Proposed Capital Budget	2023 Proposed Capital Budget	2024 Proposed Capital Budget	2025 Proposed Capital Budget	2026 Proposed Capital Budget	5 Years Proposed Capital Budget
Labour and Benefits	748,000	889,400	628,800	639,800	651,000	3,557,000
Other Operating Costs	44,400	29,600	25,000	25,400	25,900	150,300
Total Gross Expenditure	792,400	919,000	653,800	665,200	676,900	3,707,300
Building Registration/Renewal Fee	-497,000	-505,700	-514,600	-523,600	-532,800	-2,573,700
Audit Admin. Fee (One-time)	-41,700	-84,900	-43,200	-43,900	-44,700	-258,400
Audit Inspection Fee	-92,700	-188,600	-96,000	-97,700	-99,400	-574,400
Total Revenues	-631,400	-779,200	-653,800	-665,200	-676,900	-3,406,500
Total Net Expenditure	161,000	139,800	0	0	0	300,800

Conclusion

The purpose of this report was to assess the need and viability of a Citywide Apartment Building Standards and Maintenance Program. Based on the jurisdictional scan and community engagement as well as an examination of housing trends, staff assessed that a Pilot Program would help ensure that current rental units meet a minimum standards, which will help to maintain existing rental stock. Staff propose a five year proactive pilot program which will include registration, management standards and service level requirements as well as education and awareness activities. The success of the proposed Pilot Program will be assessed through registration numbers, building evaluation and audit results, tenant

engagement and compliance with the By-law requirements. The new Pilot Program will strengthen enforcement of City by-laws, enhance tenant engagement and access to information and promote the preventative maintenance of apartment buildings.

Attachments

Appendix 1: Summary of Apartment Building Complaints 2017-2020

Appendix 2: Provincial Housing Responsibilities

Appendix 3: Jurisdictional Scan

Appendix 4: Survey Results

Appendix 5: Community Engagement Summary

Appendix 6: Program Cost Recovery Model

Appendix 7: Program FTE Requirements

Appendix 8: Evaluation Criteria

Appendix 9: Funding Model Comparison



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