

CITY OF VICTORIA | 10-Year OCP Update

New Tenant Protection Bylaw and Development Permit Area

Summary of Feedback and Proposed Approach

In the Spring of 2024, the Province introduced changes to provincial legislation that gives municipalities the authority to establish Tenant Protection Bylaws (TPBs) (as per sections 63(g), 63.2 and 63.3 of the *Community Charter*) and the ability to apply them through a Development Permit Area (as per sections 488 (1)(k) and section 491 (11) of the *Local Government Act*). This new legislation means that Tenant Assistance Plans can now be required outside of the rezoning process, and they can take form of regulations, rather than just policy.

In November 2024, Council gave direction to undertake the necessary consultation for developing a new Tenant Protection Bylaw and Development Permit Area (DPA) with the purpose of mitigating the effects of displacement on tenants who will be displaced as a result of redevelopment.

A summary of the feedback obtained regarding transitioning the City's existing Tenant Assistance Policy to a Tenant Protection Bylaw and Tenant Protection DPA is provided below as well as general descriptions of the proposed Bylaw and DPA parameters.

OBJECTIVES

The objective of a new Tenant Protection Development Permit Area and associated Tenant Protection Bylaw is to help mitigate the effects of displacement on tenants who will be displaced from their rental units due to redevelopment by requiring that landowners provide those tenants with:

- Support in finding a new rental unit,
- Support in covering moving costs,
- Financial compensation based on the length of tenancy, and;
- The Right of First Refusal to a unit in the new building.

CONSULTATION FEEDBACK SUMMARY

Development Permit Areas are identified in the Official Community Plan (OCP) and therefore establishing a new DPA requires consultation as per section 475 of the *Local Government Act*. The OCP update already underway provided a good opportunity to undertake the consultation necessary for establishing a Tenant Protection DPA.

With the general direction Council provided to consult on solutions to the housing crisis (and to update the DPA framework), the City heard significant feedback over the last seven months of engagement about the need to support tenants as the city continues to grow and densify. The need

for continued and increased support for renters was also heard through recent engagement initiatives related to housing and development. Specifically, the OCP Engagement Summary Report highlights the issue of renters being displaced from their home due to renovation or redevelopment (and the rent increase associated with securing a new unit on the open market) as a prevalent concern among engagement participants, with many advocating for stronger tenant protections to prevent evictions. Suggestions on how to help renters feel more secure in their housing included: implementing long-term leases, introducing rent controls and developing anti-eviction policies.

Pursuant to section 475 of the *Local Government Act*, additional opportunity for consultation was also provided through:

1. Meeting with tenant advocates and tenants that had previously been displaced and gone through the Tenant Assistance Plan process,
2. Meeting with members of the development community and,
3. A notice of the proposed OCP amendment was posted on the City's website inviting affected persons, organizations, and authorities to ask questions of staff and provide written or verbal comments to Council for their consideration.

Previous TAP-affected Tenants

Tenants who had been previously displaced due to the redevelopment of a building and gone through a Tenant Assistance Plan were consulted to provide feedback about their experience. While most participants expressed general disappointment in their experience with landowners throughout the process, those that had been supported by a professional Tenant Relocation Coordinator reported having a positive experience in relocating to a new home. The key challenges identified by those not supported by a Tenant Relocation Coordinator were:

- The need for much more clear and regular communication throughout the process,
- The importance of an experienced, independent Tenant Relocation Coordinator to oversee the process, and;
- That landlords should be required to provide a reference or other evidence that they can share with prospective new landlords when seeking new rental housing.

Tenant Legal Advocates

The Together Against Poverty Society (TAPS) expressed support for the proposed bylaw and DPA but highlighted key areas for improvement based on their experience:

- That once a Development Permit application has been submitted to redevelop a building, that landlords be required to advise any potential tenant applying to rent a vacant unit that the building is the subject of an active development application and the estimated timing of the development process before signing a tenancy agreement.
- Developers looking to redevelop an existing rental building should be encouraged or otherwise incentivized to partner with community organizations looking for temporary housing for their clients in order to provide reduced rents while the project goes through the development process. Some developers in Victoria are already doing this.

- Consider adding a link for tenants on the City’s website that is more clear and accessible - “If my rental home is being redeveloped “click here”

Together Against Poverty Society staff also indicated the need for additional tenant protections related to renovictions. They cited several cases across the region where landlords skirted Residential Tenancy Act (RTA) regulations by submitting inflated work estimates in order to secure Residential Tenancy Branch (RTB) approval for evicting existing tenants. The new Tenant Protection Bylaw and DPA legislation is clear that it only applies to work related to the redevelopment of an existing rental home. TAPS staff indicated that they would advocate to the Province to address this issue.

The Development Community

A brief presentation on the new legislation and the proposed transition from the existing Tenant Assistance Policy to a Tenant Protection Bylaw was provided for members of the Urban Development Institute. The attendees indicated broad support for the new bylaw, as long as the process and financial requirements remained aligned with the existing process. However, attendees also described the significant challenges in identifying and securing third party Tenant Relocation Coordinators and suggested that steps should be taken to increase the pool of candidates.

PROPOSED BYLAW PARAMETERS

There is significant alignment between the description and intent of the newly granted legislative authorities and the City’s existing Tenant Assistance Policy (TAP), including the ability to establish requirements for financial assistance, moving assistance, help to find a new place to live, or the right to enter into a new tenancy agreement with the owner in the building once redevelopment is complete. Transitioning the existing policy to a bylaw (with adherence required through a DPA) will ensure these supports and protections continue to function as intended, while allowing the ability to apply tenant support to more land use applications with enhanced enforceability.

The following sections provide a general explanation on the application, eligibility and requirements to be included in the proposed bylaw.

Application

The proposed Tenant Protection Bylaw would apply to any building or development permit application to redevelop or demolish a building that will result in loss of existing (purpose-built and secondary market) residential rental units. It is proposed that market and non-market rental housing have different compensation requirements in order to ensure sufficient flexibility for non-market housing providers who generally have strong Tenant Relocation Policies in place.

Under the Bylaw, for any redevelopment that requires the relocation of existing tenants, the property owner must create a Tenant Assistance Plan that addresses the following issues:

1. Communication plan that outlines early and regular communication with tenants
2. Financial compensation
3. Relocation assistance

4. Moving costs and assistance
5. Right of First Refusal
6. Impacted tenant, process, and final report documentation

Eligibility Requirements

The Bylaw would require that a tenant assistance plan be prepared by the applicant which must include all tenants who reside in the building at the time a land use application is submitted, and whose tenancy agreement will be terminated as a result of the proposed redevelopment.

A tenant that moves into a dwelling unit after the development permit application is submitted to the City, is not required to be included in the Tenant Assistance Plan (but may be included at the applicant's discretion).

Eligible tenants that move out prior to receiving a Notice to End Tenancy but after the Development Permit application are still entitled to financial compensation and support under the Tenant Protection Bylaw.

Communication Requirements

Under the proposed bylaw, applicants would be required to communicate their intention to redevelop with tenants prior to submitting any application to the City and must continue to communicate throughout the process.

The Tenant Assistance Plan included in the application should be prepared with input from tenants, and once finalized, shared with all impacted tenants.

Prior to Development Permit Application

Before submitting a draft Tenant Assistance Plan as part of a Development Permit application, the proposed bylaw would require the applicant communicate key information about the project and the City's Tenant Assistance information documents with all tenants.

During Application Review Process

Applicants would need to provide tenants with a written update at least once every three months, on the application's progress and expected timelines.

After Application Approval

Once the Development Permit application and associated Tenant Assistance Plan have been approved, building owners would be required to notify tenants and confirm details of the approved plan.

Financial Compensation Requirements

Compensation must be provided to displaced tenants in the form of free rent, a lump sum payment, or a combination of both, at the tenant's discretion. The compensation amount is based on length of tenure and will vary based on whether the building proposed for redevelopment is market or non-market rental housing.

Under the Residential Tenancy Act (RTA), a landlord is required to provide one month's rent in compensation if they are approved to issue a *Four Month Notice to End Tenancy for Demolition*. The compensation amounts outlined below include the required RTA compensation, rather than being in addition to it.

Length of Rental Tenancy and Required Compensation

- 1 year or less: 2 months' rent
- Up to 5 years: 3 months' rent
- 5 to 9 years: 4 months' rent
- 10 to 19 years: 5 months' rent
- 20+ years: 6 months' rent

Market Rental Housing

Compensation is based on length of tenancy at:

1. Either the higher of the Canada Mortgage & Housing Corporation (CMHC) average market rent for the City of Victoria¹ for the unit type in question or the tenant's existing rent at time the tenant moves out, or;
2. Equivalent compensation in free rent in the current building or in a new building, at the tenant's discretion.

Non-Market Rental Housing

Non-market housing developments, must either:

1. Compensate tenants according to their length of tenancy as described above or;
2. Relocate all eligible tenants to comparable accommodation within an organization's existing portfolio of non-market rental housing.

Relocation Assistance Requirements

Due to the low rental vacancy rate in Victoria, it is challenging for displaced tenants to find alternate rental accommodation that is suitable and affordable. The relocation assistance proposed under the bylaw is critical in helping to minimize the stress on tenants having to navigate the city's challenging rental market and in minimizing the financial impact associated with signing a new tenancy agreement at current market rent rates.

Tenant Relocation Coordinator

Tenant Relocation Coordinators (TRCs) specialize in helping developers and tenants with preparing and implementing Tenant Assistance Plans. They ensure early, regular, and transparent communication with tenants to explain the relocation process and available benefits, and liaise with service providers or other relevant authorities as required.

The proposed bylaw would require a TRC for redevelopment projects resulting in the loss of more than 50 rental housing units. However, due to an ongoing lack of capacity in the sector, the Director of Planning may waive this requirement if the applicant demonstrates that there is dedicated and

¹ Updated annually and defined in the City's Affordable Housing Standards Bylaw.

sufficient staffing in place to implement the Tenant Assistance Plan and support tenants throughout the process.

For redevelopment applications resulting in the loss of fewer than 50 rental housing units, a TRC is encouraged but not required. However, if most of the tenants in the building(s) are identified as being in extreme core housing need, the City may require a TRC.

Alternate Housing Options

The bylaw proposes that tenants must be offered at least three housing options, with secured alternate housing preferred when possible.

The units proposed by the applicant must be:

- Comparable in terms of size and rent amount,
- Located in the Capital Region District, preferably with at least one option provided within the same general area of the city that the building being redeveloped is located,
- Rent at no more than the CMHC average rents for Victoria, or at a rate comparable to the tenant's current rate if current rent is higher, and;
- Tailored to the tenant wherever possible (e.g., pet friendly, accessible, smoke-free, etc.).

If the applicant is the owner of the alternate housing provided, preference should be given at the tenant's discretion, to:

- Phased redevelopment where tenants can be relocated a new building on the site .
- A unit within the applicant's existing housing portfolio.
- A unit within another developer or non-profit's housing portfolio.

Moving Expenses Requirements

One of two options should be provided to displaced tenants, at the discretion of the building owner:

1. An insured moving company may be hired by the applicant, with all arrangements and costs covered within the Capital Regional District; or
2. Flat rate compensation² provided to the tenant.

When a tenant is exercising the Right of First Refusal, moving expenses should be provided for both the move out and return to the building.

Tenants with additional needs or disabilities may also request additional moving support.

Right of First Refusal Requirements

All tenants included in the Tenant Assistance Plan must be offered the Right of First Refusal, which is the right for the tenant being displaced to rent a unit in the new building once redevelopment is complete.

² Based on unit size and to be included in the City's Affordable Housing Standards Bylaw.

Market Rental Housing

Returning tenants should be offered rents at 20% below starting market rents for the rental units in the new building. Landlords must include their rationale for the proposed starting market rent rates in the Final Tenant Assistance Plan report.

Non-Market Rental Housing

For non-market rental housing developments, or in instances where a market rate rental building is replaced with non-market rental housing, returning tenants must meet eligibility requirements (e.g., income limits) for the new non-market housing units and any criteria described in associated legal agreements.

Tenants Requiring Additional Assistance

Tenants requiring additional assistance may include persons with a disability, seniors, newcomers, households in extreme core housing need and others. Tenants may submit requests for additional financial compensation, moving support or relocation support.

Tenant Assistance Plan Documentation Requirements

Before Submitting the Development Permit Application

Tenant documentation required for Development Applications (in compliance with Freedom of Information and Protection of Privacy Act requirements) may include:

- Type of building to be redeveloped and number of each type of unit (1BR, 2BR, etc.)
- Rent roll for eligible tenants
- Length of tenure for eligible tenants
- Identification of tenants requiring additional assistance

After the Tenant Assistance Plan is Approved

Once the Tenant Assistance Plan has been approved, the applicant is responsible for communicating the plan to tenants, and for implementing the plan as described. Throughout implementation, applicants should maintain complete records of communication with tenants, including housing options provided and offers and acceptances of alternate housing provided.

After The New Building is Completed

A Final Tenant Assistance Report should be submitted to the City prior to the issuance of an occupancy permit. The report would provide a summary of the compensation and assistance provided to each tenant, the outcome of each tenant's new accommodation search, and which tenants have exercised their Right of First Refusal to a unit in the new building.

PROPOSED DEVELOPMENT PERMIT AREA PARAMETERS

Creating a Tenant Protection Development Permit Area (DPA) in the OCP to support the application of the new TPB would allow the City to require compliance as a condition of development permits. As the current TAP is applied in all areas of the City, the proposed DPA would also be applicable to

development applications citywide. If a TPB was established without also creating a Tenant Protection DPA, the City would rely on the usual mechanisms of bylaw enforcement to ensure compliance with those bylaws: bylaw notice, enforcement by ticketing, long-form prosecution, and injunctive proceedings to require specific performance by property owners. This approach would be challenging to administer and may not result in the support that tenants impacted by redevelopment need.

Purpose

As part of the provincial legislation changes, sections 488 (1)(k) and 491 (11) of the *Local Government Act* give municipalities the authority to create a Tenant Protection DPA that will help to mitigate the effects of displacement on tenants who will be displaced from their rental units in relation to a proposed redevelopment by requiring compliance with the Tenant Protection Bylaw as a condition of the Development Permit.

Application and Exemptions

A Development Permit would be required for any development that results in the displacement of tenants from their rental unit.

Justification

Renter protection regulations like the proposed Tenant Protection Bylaw and DPA are important for Victoria since renters account for a significant portion of the City's population, and a significant number of Victoria renters are in Core Housing Need. Renting is also an important part of addressing housing affordability since it is generally more affordable than homeownership and allows for median income households to live in Victoria, as the median annual income of renters is significantly lower than that of homeowners. Furthermore, in addition to the higher rents that a displaced tenant is likely to incur by moving into a new market rental unit, other financial and social hardships caused by displacement include moving costs, greater transportation costs for employment, loss of community networks and more. As parts of the City's aging rental housing stock come to the end of their usable life, and the demand for rental housing remains very high, redevelopment and renovation of these building is increasingly likely and there is a need to support renters through this process.

NEXT STEPS

With Council's direction, a draft Tenant Protection Bylaw and Development Permit Area will be prepared for Council's approval.