



Committee of the Whole Report

For the Meeting of September 19, 2019

To: Committee of the Whole **Date:** September 5, 2019

From: Andrea Hudson, Acting Director, Sustainable Planning and Community Development

Subject: Tenant Assistance Policy Review and Enhancements

RECOMMENDATION

That Council direct staff to:

1. Amend the Tenant Assistance Policy to:
 - a. Update compensation structure for market rental housing to be based on length of tenancy at either:
 - (1) the higher of CMHC average rent for the City of Victoria (as identified in CMHC's Annual Rental Market Report, adjusted annually) or the tenant's existing rent; or
 - (2) free rent in a different building.
 - b. Update compensation structure for non-market or social housing to be based on length of tenancy and tenant's existing rents, where compensation on free rent in a different building is preferred.
 - c. Add moving expense option for 3+ bedroom units at \$1,000.
 - d. Where right of first refusal applies, moving expenses are covered for both the move out and return to the building.
 - e. "Vulnerable Tenants" to be referred to as "Tenants Requiring Additional Assistance" with additional supports identified.
2. Consider an additional 1 FTE for the Tenant Ambassador Position as part of the 2020 Financial Planning process.
3. Report back to Council following any significant changes to the *Residential Tenancy Act* that may impact provisions outlined in the Tenant Assistance Policy.

EXECUTIVE SUMMARY

The purpose of this report is to provide Council with information, analysis and recommendations resulting from a one-year review of the City's Tenant Assistance Policy (TAP). The TAP came into effect on September 1, 2018 to help mitigate the impacts of displacement on tenants by providing guidelines for support offered by developers and property owners in the event of renovation or

redevelopment of rental property. This report also proposes enhancements to the TAP following the conclusions of the Provincial Renters Task Force (Task Force) and to align with any proposed changes to the *Residential Tenancy Act* (RTA) that may impact provisions outlined in the TAP.

Two recommendations were identified in the Task Force Report that municipalities, including the City of Victoria, can collaborate with other municipalities and the Province of BC on the work to: (1) stop renovictions; and (2) develop tenant compensation and relocation guidelines in the case of demolition of purpose-built rental to reduce dislocation, and homelessness of affected tenants (anticipated work in 2019/2020). The changes to the RTA are extending the Notice to End Tenancy from two to four months and offering the Right of First Refusal for renovation and repairs for residential properties of five or more units with timelines and penalties. The changes in the RTA have been incorporated as part of the TAP procedures.

The one-year review of the policy implementation involved analyzing the City's tenant assistance plans and various forms of stakeholder engagement to propose enhancement to the existing policy and to inform hiring of a new Tenant Ambassador position, identified in the 2019-2022 Strategic Plan as an action for 2020. "Focus on Renters" is one of five action areas in the Victoria Housing Strategy. The enhancements to the Tenant Assistance Policy and the hiring of a Tenant Ambassador position will have a significant impact on supporting renters in Victoria.

PURPOSE

The purpose of this report is to provide Council with information, analysis, and recommendations on enhancements to the TAP following a one-year review of the policy, and considering conclusions of the Task Force and changes to the RTA that may impact provisions outlined in the TAP.

BACKGROUND

On May 10, 2018, Council passed the following motion in the recommended adoption of the Market Rental Revitalization study (MaRRS):

1. Adopt the Tenant Assistance Policy attached to this report (Attachment H) effective September 1, 2018 and direct staff to:
 - a. Report back to Council following conclusion of the Provincial Renters Task Force and any proposed changes to the *Residential Tenancy Act* that may impact provisions outlined in the Tenant Assistance Policy.

This report provides the review, information and enhancements to the TAP following the conclusion of the Task Force, changes to the RTA, and a year-in-review since policy implementation.

Overview

The intent of the TAP is to help mitigate the impacts of displacement on tenants by providing guidelines for support offered by developers and property owners in the event of renovation or redevelopment of rental property. The focus of the TAP is on protecting tenants, particularly tenants requiring additional assistance, who will face challenges in identifying and securing alternative accommodation in cases of redevelopment.

Legislative Authorities and TAP Application

Under the *Local Government Act* (LGA) and the *Community Charter*, Council cannot require tenant assistance as conditions of obtaining building or development permits. Cities do have broader

authority in the instance of rezoning applications, where Councils can consider, among other things, public benefit and potential negative effects of the development. However, adherence to the TAP and completion of tenant assistance plans cannot be requirements to obtaining rezoning approval, nor can they be expected to guarantee a Council's approval of these applications. Therefore, this policy should be used on a voluntary basis and as guidance in instances where redevelopment will impact existing tenancies.

ISSUES & ANALYSIS

The TAP was initially created in response to the gaps of the provincial legislation on tenant protection with major renovation and redevelopments. Since the adoption of the TAP, changes have been made to provincial legislation and in response, amendments to the TAP now need to be considered.

1. Changes to the Residential Tenancy Act

Effective May 17, 2018, the BC Government has made some changes to the RTA to provide more tenant protection that includes extending the Notice to End Tenancy period for demolition, renovation or repair and conversion, the offer and timelines of Right of First Refusal for landlords, and penalties for landlords who don't follow the Right of First Refusal procedure or don't accomplish the stated purpose that was their ground for ending the tenancy (summarized below):

Changes to the RTA	Prior to May 17, 2018	Effective May 17, 2018
Notice to End Tenancy (for demolition, renovation or repair, and conversion)	Two months	Four Months
Right of First Refusal	None	In residential property containing five or more rental units where the landlord is ending tenancy to renovate or repair the rental unit, tenant must be offered unit in new or repaired building (no specification of price)
Implications if tenant exercises right of first refusal and landlord does not give the tenant a 45-day notice of availability and a tenancy agreement to sign	N/A	Landlord compensate 12 months' rent to tenant (unless excused by an arbitrator in extenuating circumstances)
Implications if landlords end tenancy for landlord use and don't accomplish the stated purpose within a reasonable period or don't use the rental unit for the stated purpose for at least 6 months (beginning within a reasonable period)	Compensation of two months' rent to tenant	

The extended Notice to End Tenancy and offering the Right of First Refusal for renovations or repairs are enhancements to current legislation; however, tenants can still face displacement from a residential property containing four or less rental units or a demolition (which are not covered by the RTA). The TAP is meant to augment the RTA by providing direction to applicants on additional support to tenants who are displaced due to redevelopment, such as offering Right of First Refusal at a discounted rent for redevelopment projects that proposes a demolition of existing rental units and development of any rental units.

The changes in the RTA have been incorporated as part of the TAP procedures.

2. Provincial Renters Task Force Recommendations

In April 2018, the Premier of British Columbia appointed a Rental Housing Task Force (Task Force) to advise on how to improve housing security and fairness for renters and rental housing providers throughout the province. The Task Force was appointed to review the RTA, the *Manufactured Home Park Tenancy Act* and the processes of the Residential Tenancy Branch (RTB). Through this work and extensive consultation with stakeholders, the Task Force presented their final report in December 2018 with 23 recommendations identified. The recommendations serve to identify potential ways to modernize the policies and the laws that govern residential tenancy in BC. The full report is attached to this report (Attachment A).

The recommendations relevant to the TAP are:

Recommendations	Status
#1 – Stop Renovictions	In Progress – There are new Residential Tenancy Policy Guidelines in 2019 for renovation work, created to clarify what type of renovation repairs would likely require a Landlord to end a tenancy agreement with a tenant. Further work and amendments are expected for the RTA in 2020 where there are potential opportunities for the City and the Province to collaborate.
#2 – Work with local governments to develop tenant compensation and relocation guidelines in the case of demolition of purpose-built rental to reduce dislocation, and homelessness of affected tenants	Exploring – The Province and associated divisions are expected to undertake this work in the 2019/2020 year where there are potential opportunities for the City to collaborate and assist working with other municipalities and the Province.
#3 – Set a clear timeline for a tenant's decision on the use of a Right of First Refusal	In Progress – Changes to the RTA were made in May 2018 to reflect a timeline for Landlords to offer a tenant the Right of First Refusal with at least a 45-day notice of availability. Further work is underway with the Province to explore a timeline for tenants to respond.
#12 – Make the Residential Tenancy Branch more responsive, accessible and proactive with more opportunities to learn from and educate landlords and renters on their rights and responsibilities	Completed – An annual budget increase of \$3.2 million for the RTB to improve services and protection for landlords and tenants.
#15 – Require landlords who are filing for eviction for cause, or for renovation, to provide all evidence with any eviction notice to the affected tenants	Exploring – Further work and amendments are expected for the RTA in 2020.

Two recommendations were identified in the Task Force Report that the City of Victoria can collaborate with other municipalities and the Province of BC on the work to: (1) stop renovictions; and (2) develop tenant compensation and relocation guidelines in the case of demolition of purpose-built rental to reduce dislocation, and homelessness of affected tenants (anticipated work in 2019/2020). With this consideration, staff recommends reporting back to Council on future changes to the RTA that may impact provisions outlined in the TAP.

3. Tenant Assistance Policy – A Year in Review

Since September 1, 2018, there have been 17 development projects subject to the TAP. The table below summarizes the number of tenant assistance plans, bedroom unit sizes and average rent for both market and non-market rental housing:

MARKET RENTAL	#		
Tenant Assistance Plans	14		
Total Units	78	Tenant Assistance Plan Average Rents / Month¹	CMHC Victoria Average Rent²
Occupied Units	55	\$1,095	\$1,166
Studio	8	\$754	\$935
1 BR	46	\$964	\$1086
2BR	19	\$1,386	\$1,438
3BR+	5	\$1,588	\$1,766
Vacant Units	23	-	-
NON-MARKET RENTAL	#		
Tenant Assistance Plans	3		
Total Units	97	Tenant Assistance Plan Average Rents / Month¹	City of Victoria Affordable rents⁴
Occupied Units	96	\$587	-
Studio	14	\$433	\$375 – \$875
1 BR	43	\$646 ³	\$425 – \$1,050
2BR	29	\$865 ³	\$575 – \$1,300
3BR+	0	N/A	\$700 – \$1,750
Vacant Units	1	-	-

¹Rent roll information collected from Tenant assistance plans

²CMHC Rental Market Report 2018

³One Non-Profit provided a range for one- and two-bedroom rents that may affect the TAP average rents per month

⁴Victoria Housing Strategy Phase Two: 2019 - 2022

Gaps in Rental Rates and Compensation for Market Rental housing

There are gaps in rental rates between the tenant assistance plan average rents and the current average market rents in Victoria. In market rental housing, the average rent per month from tenant assistance plans was lower in all bedroom unit sizes in comparison to the CMHC average rents. A high portion of the units were one-bedrooms and there were 23 vacant units reported at the time of application. The majority of tenant assistance plan tenants pay considerably lower than market, and in many cases, lower than the CMHC average rents. With this consideration, staff recommend that the compensation structure for market rental housing should be provided in two ways:

- (1) Applicants compensate tenants at CMHC average rents if the rent is lower than those rates. If the existing rent is higher than CMHC average rents, then the tenant should be provided compensation at existing rent – This recommendation is to ensure tenants that may have previously paid well below-market rents are properly compensated with current average market rental rents as well as tenants with existing rents higher than the CMHC market rates, making improvements to tenant compensation for a wider range of renters; or

- (2) Applicants compensate tenants through free rent in a different building – This recommendation is preferred in instances where applicants can relocate tenants within their own portfolio and/or mitigate impacts for tenant eligibility to any subsidy or income assistance program that would be assessed on household taxable income.

Prioritize Rehousing in Non-Market Rental Housing

In non-market housing, the tenant assistance plan average rents, per month, for all bedroom unit sizes, were within the range of the City's affordability targets and rents were in the low income quintile (\$20,000 – \$34,999). As well, the three tenant assistance plans involved in a rezoning application for non-market housing were to demolish and redevelop the sites to increase the supply of affordable housing. With non-profit housing providers and developers placing a high priority on rehousing, staff recommend compensation be provided in free rent in a different building wherever possible. The preference on free rent in a different building is recommended to mitigate impacts for tenant eligibility to any subsidy or income assistance program that would be assessed on household taxable income.

4. Stakeholder Engagement

City staff has engaged with stakeholders for further information, consultation, and feedback on policy implementation and procedures.

A. Housing Summit

On March 11, 2019, the City hosted the Victoria Housing Summit, inviting various housing stakeholders to participate and provide input on the Victoria Housing Strategy update. City staff hosted a "Tenant Assistance Training Workshop and Feedback" session, covering background information of the policy, providing training around policy procedure, and holding roundtable discussions on feedback on the policy content and areas for improvements.

Approximately 25 stakeholders attended the session, coming from different areas of housing, including developers, property management, non-profit housing providers, tenant advocacy groups, renters, planners from other municipalities and councillors. Discussion pertained to meeting policy objectives, included the strengths of the policy, and how the policy could be improved in the future for both policy content and implementation process.

The feedback included mixed reviews about the policy implementation from different stakeholders, but participants generally agreed that the policy was a good start and foundation to assisting tenants. Some of the key messages and recurring themes are listed below:

Applicants express challenges in meeting policy guidelines

- providing similar neighbourhood options and rent levels are challenging with low vacancy rate
- meeting policy guidelines for smaller scale projects is challenging (specifically those that are vulnerable tenants and cost of compensation and resources)
- applicants find that offering a right of first refusal discount of 10% is a disincentive for new rental developments
- a need for flexibility in the TAP were expressed by applicants (market and non-market housing developers)

Tenant concerns with policy and development process

- tenants communicating and identifying their ‘vulnerabilities’ is sensitive and personal; should be identifying tenant needs, not vulnerabilities
- there are privacy concerns regarding what information is expected of tenants to provide
- tenants find that the rent is too expensive even with the right of first refusal discount on new building
- tenants with less than one year of tenancy should also be considered
- tenants may not want to engage, share information and/or be a part of this process
- building trust and relationships with applicants is important

The need for tenant relocation coordinators

- when a landlord and a tenant’s interest compete, a tenant relocation coordinator (TRC) is important to have as a third or neutral party
- TRCs need specific skillsets to better serve tenants with sensitive needs

Increase City’s capacity

- City needs in-house experts that can navigate the housing sector
- City to be a part of the tenant relocation coordinator selection process and guidelines (education, background, experience, etc.)
- provide better communication, education, and resources to tenants and applicants

From the summit, staff responded to the feedback and identified actions to explore further with the improvements of the policy. This summary of the session feedback and actions can be found in the report as Attachment B.

B. Renters’ Advisory Committee

On July 9, 2019, City staff presented to the Renters’ Advisory Committee on the proposed updates to the TAP based on the actions explored from the housing summit and staff considerations. Due to limited time, City staff offered RAC members to provide written feedback of the proposed changes at the time of meeting. City staff plans to continue liaising with RAC members on further discussion and recommendations to help review future policy content, procedures, along with creating education and awareness of TAP.

C. Input from Applicants and Tenants

Throughout the year, City staff have worked directly with applicants and tenants through Tenant Assistance Plans and have taken into consideration the strengths of the policy and areas for improvements as lessons learned:

Areas of Strength

- *Policy being met by applicants* – City staff have worked extensively with applicants and tenants to assist and support tenants affected in development applications. In most cases, applicants have met the policy components and are providing tenants the appropriate support requested.
- *Policy being applied in other permits* – While the TAP applies to rezoning applications and serves as a best practice guide only in other permit applications, staff have received voluntary tenant assistance plans for other types of applications, for example development permit with variance applications with existing rental units.

- *Tenants receiving support from policy* – From the 17 tenant assistance plans, 151 tenants will be receiving assistance from the policy.

Challenges or Areas for Improvement

The table below summarizes the challenges or areas for improvements and highlights City staff response to the changes made and proposed:

Challenges or Areas of Improvements	Policy Response
<i>Right of First Refusal</i> – In many of the market rental projects, the right of first refusal has not been applicable for projects that demolish a building and where rental is not offered in the new building.	Under the Victoria Housing Strategy, City staff will be exploring other rental policies to address this issue.
<i>Considerations for family-friendly units (3BR+)</i> – The existing policy covers moving expenses for two or more bedrooms at \$750, where moving companies have identified that family-friendly units of 3 or more bedrooms would require higher compensation.	Staff recommends adding a family-friendly moving expense of three or more bedrooms at \$1,000 to ensure appropriate resources are allocated to families, with preferences for insured moving companies and all arrangements and costs covered.
<i>Tenant Relocation Coordinators</i> – The existing policy recommends applicants to hire or appoint an experienced tenant relocation coordinator. This has posed a challenge in situations where third-party service is requested on behalf of the applicant or tenant, and the City currently does not have a list of contacts to provide.	City staff has put out an Expression of Interest (EOI) for a Tenant Relocation Coordinator roster with identified qualifications and skill sets in tenant assistance. The roster list will soon be available through the City for applicants and tenants requesting third-party service.
<i>Vulnerable tenants</i> – Some applicants have expressed that identifying vulnerable tenants is difficult and some tenants have expressed concern with disclosing sensitive information to landlords or developers.	City staff has removed the language around “vulnerable tenants” and replaced it with “tenants requiring additional assistance”. Disclosing the reason for requiring additional assistance would not be a prerequisite to receiving support and would remain at the discretion of the tenant. The support for these tenants has been expanded in the policy, where additional assistance to tenants can be determined by the applicant and/or at the tenant’s discretion on a voluntary basis.
<i>Staff time and resourcing</i> – Housing policy staff resources required to meet with applicants and tenants, provide support throughout the tenant assistance plan application, coordinate reporting and monitoring, and perform other administrative duties has been significant. As well, limited staff capacity has also affected the level of proactive support offered to tenants.	Council directed staff to prioritize the hiring of a Tenant Ambassador position as part of the update to the Victoria Housing Strategy. Assigning the administration of the TAP program to this position will significantly ease this pressure and allow existing housing staff to focus work on advancing other Housing Strategy actions and policy initiatives.
<i>Education and awareness</i> – Tenants have expressed that they had not been aware that this policy exists at the City and that further awareness of this policy is needed.	While City staff have created a <i>Frequency Asked Questions (FAQ)</i> sheet to support some of this work, the Tenant Ambassador position may also provide valuable work in educational programming and a resource for renters in Victoria.

Implementation

Staff recommend moving to implementation with all new and in-stream applications being subject to this revised policy. Tenant assistance plans that have been approved by Council will refer to the existing policy.

OPTIONS & IMPACTS

Option 1 (Recommended)

Adopt the recommendations put forth in this report by directing staff to:

- a. Adopt the enhanced Tenant Assistance Policy as written.
- b. Consider adding a Tenant Ambassador position for 2020 Financial Planning process.
- c. Report back to Council on the upcoming changes to the RTA that may have implications on the Tenant Assistance Policy.

Option 2

Maintain the policy in its current form.

Should Council decide to decline staff recommendations, the existing Tenant Assistance Policy will not address current challenges with the policy or its administration.

Accessibility Impact Statement

There are no impacts to accessibility associated with the recommendations contained in this report.

2019 - 2022 Strategic Plan

These recommendations will support Strategic Objective #3: Affordable Housing (#16).

Impacts to Financial Plan

The consideration to hire an additional 1 FTE for the Tenant Ambassador position will have an impact on the 2020 Financial Plan as the position was identified as a 2020 action item in the 2019 – 2022 Strategic Plan.

Official Community Plan Consistency Statement

The Victoria Housing Strategy and its associated work and resources is in direct alignment with Section 13: "Housing and Homelessness."

CONCLUSIONS

Housing Affordability is a major component of the City's Strategic Plan. "Focus on Renters" is of one of five action areas in the Victoria Housing Strategy. The proposed amendments to the Tenant Assistance Policy and the recommendation to consider hiring of a Tenant Ambassador position are intended to have a significant impact on supporting renters in Victoria.

Respectfully submitted,




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Andrea Hudson, Acting Director
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Report accepted and recommended by the City Manager:


Date: Sept 12, 2019

List of Attachments

- Attachment A: British Columbia Rental Housing Task Force Recommendations and Findings
- Attachment B: Housing Summit – Tenant Assistance Training & Feedback
- Attachment C: Tenant Assistance Policy – September 19, 2019