

# Council Member Motion For the Committee of the Whole Meeting of November 4, 2021

**To:** Committee of the Whole **Date:** October 26, 2021

From: Councillor Young

**Subject:** Council Member Motion: Advocate to Province re: Allowable Rental Increases

Reflect Taxes and Charges

### RECOMMENDATION

That Council advocate with the provincial government that allowable rental increases reflect the impact of local government taxes and charges.

#### **SUMMARY**

This proposal for advocacy is based on the premise that the best way to "increase renter participation in public engagement processes ", specifically to encourage renters to take an interest in City budget matters, is for the impact of budget decisions to be manifest on renters' monthly rent bill, in the same way that budget decisions show up on the annual tax bill of owner-occupiers

#### **BACKGROUND**

## Current situation:

While increases in City taxes that do not create services that are valued by residents will eventually pass through to rents as potential developers of property in the City decide to develop property elsewhere instead of in the City, this adjustment process is likely to take many years. Some landlords will set rents based on their costs rather than on market conditions, but they are constrained by legal limits on rent increases that do not reflect local taxes. For all practical purposes renters during a period of low vacancy are unaffected by tax rate decisions. With our high proportion of renters, this issue is particularly important to Victoria.

Currently the *Residential Tenancy Act* regulations do contain a provision for landlords to apply for a rent increase (other than for capital expenditures) in the event they have incurred a "financial loss from an extraordinary increase in the operating expenses of the residential property" [Regulations section 23] but this right to apply is constrained by conditions whose relevance to a municipal tax increase is not clear. Many other factors must be taken into account (e.g. the rent payable for similar rental units in the residential property immediately before the proposed increase is intended to come into effect and the rent history for the affected rental unit in the 3 years preceding the date of the application) and the outcome is also dependent on the judgement of the arbitrator ("a change in operating expenses ... in the 3 years preceding the date of the application that the director considers relevant and reasonable").

The *Act* itself does not contain a definition of "financial loss" and I do not know how broadly it applies. For example, in 2013 an arbitrator noted that amortization does not qualify as an

operating expense [Vancouver Kiwanis Senior Citizens Housing Society]. A quick search of records of arbitrations did not provide much information about previous decisions on this issue, beyond confirming that many factors are taken into account by arbitrators.

I am confident that a small scale landlord of a garden or basement suite that has been owned for some time and thus does not have major mortgage interest costs would find it difficult to justify even going through the process involved in obtaining a rent increase beyond the legislated amount, and larger landlords would find the process highly uncertain.

There are also restrictions on the sum of rental increases if both capital costs and other costs have increased, and as we saw during COVID the Province may restrict overall rental increases while imposing no such restriction on property tax increases.

#### Potential Solutions:

Commercial rental arrangements quite commonly contain provisions for a pass through of taxes as well as other costs such as water and sewer that are not billed directly to consumers. If units within a building are not separately assessed leases must provide for allocation of the property tax bill. Thus business owners are typically sensitive to local tax rates.

The situation is different for residential renters, and the taxable values of individual units will not be available for multiple unit properties. While it would be possible to require that the Assessment Authority assess each rentable dwelling unit separately, or that building owners allocate the property tax burden on multiple unit residential rental buildings, this would be costly and slow. I suggest that a simple solution would be for the Province to determine the average ratio of property tax cost to total rental and then set the permissible rent increase for each municipality based on this. Thus if is determined that property taxes represent 10 percent of rent costs, the Province sets its permissible rent increase at 2 percent, and the municipality sets its tax increase at 3 percent, then the allowable rent increase for that municipality would be 90% x 2% plus 10% x 3%, or 2.1 percent.

The tax bill an owner occupier or landlord faces is based on decisions by regional governments and school boards as well as by various provincial agencies (Assessment Authority, MFA etc.). These decisions can be passed through in the same way as municipal taxes, with the allowable increase again calculated for each area. The allowable increase for each municipality would require only a single calculation that would apply for the year following the issuing of tax bills (unless different school districts within a single municipality impose different rates).

Respectfully submitted,

Councillor Young