

Residential Landlords Beware! Toronto By-law Creates Onerous New Obligations

April 6, 2017

By Robert Eisenberg

On March 28, 2017, Toronto City Council adopted Agenda Item LS17.1, which authorizes the creation of a new by-law (the “By-law”) to govern apartment buildings in Toronto, and creates significant new record-keeping and reporting obligations for residential landlords. The definition of “apartment buildings” is intended to apply to all purpose-built rental properties in Toronto with three (3) or more storeys and ten (10) or more dwelling units available for rent. It will not apply to long-term care facilities, licensed retirement homes, or co-operative housing, but will cover Toronto Community Housing buildings (with some small differences).

The proposed By-law will apply to an estimated 3,578 apartment buildings in Toronto. The By-law will come into effect on July 1, 2017, and according to Councillor Josh Matlow, City inspectors will have visited every building by the end of 2017.

Registration with the City

The first new requirement of landlords is to register with the City of Toronto (the “City”) every year. Registration will consist of paying an annual registration fee of \$10.60 per unit (to be adjusted annually to account for inflation) and providing the City with specified information, including:

- the name and contact information of all building owners (and the operator, if different) (collectively, the “**Landlord**”, although there are some differences in how owners and operators are treated);
- what security features (such as locking systems, cameras, security services, etc.) are used for the building; and
- the name of the local distribution company/provider providing sub-metered electricity to the building.

The Landlord’s information must be updated with the City within thirty (30) days of any change, while the balance of the information required must be updated every year upon re-registration. Failure to correct missing/inaccurate registration upon request can lead to the deregistration of the Landlord without further notice.

Tenant Service Requests

Another requirement imposed by the By-law is that Landlords must develop a process for receiving and tracking tenant requests, which includes collecting specific information and providing a copy of the infor

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Tenant Service Requests

Another requirement imposed by the By-law is that Landlords must develop a process for receiving and tracking tenant requests, which includes collecting specific information and providing a copy of the information to the tenant upon request. Landlords must respond to urgent requests within twenty-four (24) hours and to non-urgent requests within seven (7) days. Generally, requests are considered "urgent" if they relate to security or utilities.

Landlord's Notification Board

Landlords are required to maintain a notification board in a "central location" of the building and post information related to: planned/unplanned service disruptions; information regarding major capital projects; the cleaning plan; emergency contact information; information regarding the nearest air-conditioned location; all orders pursuant to Chapter 629 of the Municipal Code and notices issued pursuant to Chapters 485 and 844 of the Municipal Code; property standards appeals relating to common areas (if any); the date of any Municipal Licensing and Standards audit; and any other documentation required by the Executive Director, Municipal Licensing and Standards ("**MLS**").

Landlords are also required to create and maintain records relating to each of the following obligations for at least two (2) years:

State of Good Repair and Capital Plan

Landlords shall create "a current state of good repair capital plan" and shall make this plan available to MLS and to tenants and prospective tenants upon request. This plan must include a list of "capital elements" of the building and the date upon which they will be replaced or updated.

Waste Management and Cleaning Plans

Landlords are required to develop and implement waste management plans for the property and provide information to tenants about waste pickup and the correct methods for disposing of various materials. Furthermore, Landlords must create and adhere to a cleaning plan for the building, which must include a list of all common areas and when they are to be cleaned, as well as the Landlord's process

(including a timeline, in hours) for responding to emergency situations.

Pest Management

Landlords are required to inspect all common areas (indoor and outdoor) of the building at least once per month for the presence of pests, and inspect any area within seventy-two (72) hours of receiving any information indicating the presence of pests. Once pests are detected, there are specific obligations on Landlords to remedy the problem, as well as restrictions on renting units to tenants while there is an ongoing pest problem. Notices regarding pest treatment activities must be posted on the notice board, and pest inspection and treatment records pertaining to common areas must be provided to tenants and prospective tenants upon request.

Enforcement Activities by the City

MLS shall have the authority to conduct routine site visits and pre-audits of all buildings covered by the By-law to determine whether Landlords are in compliance. MLS also has the authority to audit buildings that require further investigation.

Any Landlord contravening the terms of the By-law is guilty of an offence, and, upon conviction, is liable for fines of up to \$100,000.00. Moreover, directors or officers of a corporate Landlord knowingly concurring in the contravention of any offence under the By-law by the corporate Landlord are also guilty of an offence.

Finally, the City has published a fee schedule in relation to the new By-law (although the fees will be waived for social housing providers). [A copy of the fee schedule can be viewed here](#) .

In terms of funding the By-law, estimates put out by the City state that the program will cost \$5 million annually, with 53% of the funding coming from the annual registration fees, 12% from enforcement actions, and the remaining 35% from property taxes.

While smaller fees may be passed on to tenants – at least in buildings constructed post-1991, which are exempt from rent control rules – according to the Director, Investigation Services of the MLS, Landlords will NOT be able to pass on the costs of capital repairs ordered by the City to their tenants.

Summary

Overall, the new By-law imposed by the City places onerous new recordkeeping and reporting requirements on residential landlords, in addition to the annual costs of registration and inspections/audits. However, whether the added regulations will deter developers from building new purpose-built rental buildings – as lone detractor Councillor Giorgio Mammoliti warns – remains to be seen.

Should you have any questions regarding the new By-law or would like assistance in ensuring that your apartment building is in compliance with the By-law or other governmental requirements, please contact Robert Eisenberg at reisenberg@weirfoulds.com or by telephone at 416-619-6287.

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For more information or inquiries:



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Robert Eisenberg is a property development and commercial leasing lawyer who excels at identifying potential landmines and devising clear, creative, and proactive solutions.

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