

From: **"Mochrie, Paul"** <Paul.Mochrie@vancouver.ca>

To: **"Direct to Mayor and Council - DL"**

Date: 7/2/2021 5:02:46 PM

Subject: Memo - Provincial Renovictions Legislation + City Policy Update (RTS 14149 & 14138)

Attachments: Memo to Council - Provincial Renovictions Legislation + City Policy Update 7.2.pdf

Dear Mayor and Council,

Please see the attached memo from Theresa O'Donnell regarding an Update on Residential Tenancy Act Changes and Additional Action to Protect Renters (RTS 14149 and 14138)

- The purpose of this memo is to update Council on recent policy action from the Provincial Residential Tenancy Branch (RTB), including new rules to prevent renovictions and a new Allowable Rent Increase for capital upgrades. Both measures take effect July 1st, 2021.
- This memo also includes updates on ongoing work related to recent Council motions related to renovictions and pets in rental housing.

Should you have any questions, please contact Theresa O'Donnell, GM of Planning, Urban Design, and Sustainability at Theresa.O'Donnell@vancouver.ca

Best,
Paul

Paul Mochrie (he/him)
City Manager
City of Vancouver
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The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the xʷməθkʷəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and səliłwətał (Tsleil-Waututh) Nations.

MEMORANDUM

June 29, 2021

TO: Mayor and Council

CC: Paul Mochrie, City Manager
Karen Levitt, Deputy City Manager
Katrina Leckovic, City Clerk
Lynda Graves, Administration Services Manager, City Manager's Office
Maria Pontikis, Director, Civic Engagement and Communications
Anita Zaenker, Chief of Staff, Mayor's Office
Neil Monckton, Chief of Staff, Mayor's Office
Alvin Singh, Communications Director, Mayor's Office
Sandra Singh, General Manager, Arts, Culture, and Community Services
Patrice Impey, General Manager, Finance, Risk, and Supply Chain Management
Susan Haid, Deputy Director of Long Range and Strategic Planning, PDS
Ryan Bigelow, CEO, Vancouver Affordable Housing Agency
Dan Garrison, Assistant Director, Housing Policy and Regulation, PDS
Celine Mauboules, Acting Managing Director, Homelessness Services and Affordable Housing Programs, ACCS
Sarah Hicks, Acting Chief License Inspector, DBL

FROM: Theresa O'Donnell
General Manager, Planning, Urban Design and Sustainability

SUBJECT: Update on Residential Tenancy Act Changes and Additional Actions to Protect Renters

RTS #: 014149 and 014138

PURPOSE

The purpose of this memo is to update Council on recent policy action from the Provincial Residential Tenancy Branch (RTB), including new rules to prevent renovations and a new Allowable Rent Increase for capital upgrades. This memo also includes updates on ongoing work related to recent Council motions on renter protections.

Provincial Action to Prevent Renovations

On March 1st, 2021 the Province announced new legislation that would amend the Residential Tenancy Act (RTA) to increase protections for tenants against renovations, taking effect July 1st, 2021. The legislation follows from Recommendation #1 of the 2018 [Provincial Rental](#)

[Housing Task Force](#) to stop renovations, recommending that the Province amend the RTA so that evictions for renovations are reserved for “the rare instance of serious, major, and long-term renovations...which extend the life of a building where it is impossible to keep tenants in the building.”

Under previous RTA rules, Landlords could issue a four-month notice to end tenancy for renovations at any time. While several BC Supreme Court decisions¹ have created judicial standards for renovation proceedings, these standards were not explicit in the Act and it was incumbent on existing tenants to dispute a notice to end tenancy via the RTA dispute resolution process – a costly and time-consuming activity.

The new legislation introduces explicit requirements for landlords applying for a four month notice to end tenancies for renovations, reflecting the standards set out by the BC Supreme Court. The RTB has also created a new process for these types of notices, requiring landlords to apply directly to the Residential Tenancy Branch before they can end tenancies for renovations. Landlords applying to end tenancies will be required to enter a dispute resolution process, with the opportunity for tenants to participate in an arbitration hearing and provide their own evidence. As part of the new process, landlords will be required to provide evidence to the RTB and all tenants demonstrating that the landlord has all necessary permits in place; that the renovations require the rental unit to be vacant and are necessary to prolong or sustain the use of the rental unit or the building; and that the only reasonable way to achieve the necessary vacancy is to end the tenancy agreement.

An additional change in the new legislation is an amendment to the previous rules on bad faith eviction claims. Currently, if a landlord evicts a tenant for their own use or for renovations, but don't follow through on the reason for the eviction, a tenant can receive twelve months' free rent. Previously, the onus was on the tenant to prove bad faith, a potential barrier to tenants being able to access legal recourse. With the new legislation, the onus is now on the landlord to provide evidence that they followed through on the purpose stated on the notice to end tenancy.

City staff have met with RTB staff twice since the new legislation was announced. The RTB confirmed that the intent of the legislation is to dis-incentivize landlords from applying to end tenancies except in cases of major capital upgrades and structural work that cannot be feasibly completed with tenants in place. This means that most renovations and repairs, including projects requiring only building or trades permits, would not be considered sufficient to end tenancies. This addresses a gap previously identified by Council in the City's tenant protections, since the City currently does not have authority to apply additional tenant protections to building permits. Staff are also updating procedures under the Tenant Relocation and Protection Policy to ensure that tenant protections under City policy for renovations covered by the TRPP are aligned with the new Provincial rules.

Under the new legislation, landlords may begin applying to the RTB on July 1st for dispute resolution to end tenancies. RTB staff have indicated that dispute resolution hearings will begin in early fall. Staff will continue to work with the RTB to clarify questions about the new rules and process, and ensure that Vancouver tenants and landlords are aware of the new protections.

New Allowable Rent Increase for Capital Upgrades

¹ [Berry and Kloet v. British Columbia](#) (2007); [Baumann v. Aarti Investments Ltd](#) (2018)

In addition to the new rules on renovations, the Province is also creating a new allowable rent increase option in the RTA to support landlords with major improvements to existing rental. Only specific types of expenditures will be eligible for the new rent increase option: maintenance, repair or replacement of a major system (mechanical, structural, electrical); or improvements achieving a reduction in greenhouse gas emissions or improvement of security of the property. Landlords will be required to apply to the RTB for the allowable rent increase and tenants will be able to give evidence at a hearing before the rent increase is approved. The rent increase will be based on an explicit formula, capped at an additional 3% for one year, with the option to extend the rent increase up to two additional years depending on the cost of the repairs.

The new allowable rent increase option is intended to support landlords with the cost of major repairs and improvements without ending tenancies. The RTB previously reduced the annual allowable rent increase for landlords to 2% in 2017, and a COVID-19 rent freeze has been in place since March 2020. Landlords will only be able to apply for the new allowable rent increase for capital expenditures every 18 months, and the rent increase must be combined with any additional notices for that year (e.g. the annual allowable rent increase).

The new allowable rent increase option for capital improvements will come into effect on July 1st. Staff are continuing discussions with the RTB staff to understand how the program will be implemented and communicated to landlords and renters, and will monitor impacts in Vancouver.

Update on Council Motions

Motion B.10 *Protecting Tenants – Taking Action Against Renovations*, approved by Council on October 15, 2020 directed the Mayor's office to advocate to the Provincial Government to fulfill its commitment to clarify and prevent renovations under the RTA with appropriate legislative changes. Should that commitment not be provided, the motion directs staff to provide a report for Council's consideration by Q2 2021, setting out parameters to consider for a framework to protect renters during renovations and demolitions of existing rental.

With new Provincial legislation coming into effect on July 1st, 2021 Staff priority at this time is to engage the Province to understand the new legislation, provide feedback on the implementation plan and ensure that City processes and policies are aligned with RTA measures to support renters. Tenant protection and anti-displacement are important themes emerging through the Broadway Plan engagement, and staff will be investigating policies to strengthen renter protections and mitigate the impacts of residential displacement as part of the Plan. Work is also underway on an anti-displacement/inclusion framework as part of the Vancouver Plan, and Staff will be providing updates to Council as the work progresses.

Motion B.2 *Prohibition of "No Pets" Clauses in Rental Contracts* called Staff to explore mechanisms for curbing landlords' right to refuse rental on the basis of pet ownership, in addition to advocacy to the Province to amend the RTB to facilitate pets in rental housing. Although the jurisdiction to allow pets in rental housing rests with the Province under the RTA, Staff have pursued more focused initiatives to accommodate renters with pets in Vancouver, while also considering concerns from landlords and other renters' about preventing

damage to rental units and mitigating impacts including noise and allergies. These initiatives include:

- Previous work with the Renters' Advisory Committee on education and awareness initiatives to help inform stakeholders about the benefits of pets for tenants and the importance of responsible pet ownership.
- Discussions with development applicants to enable pet-friendly buildings in new private and non-market development. In the case of City land leased to non-profits, the importance of having a pet friendly building forms part of lease agreement discussions with non-profits.
- The Tenant Relocation and Protection Policy approved by Council in 2019 asks that development applicants consider a tenant's need for a pet-friendly unit as part of their assistance identifying alternate accommodations.

CONCLUSION

City Staff will continue to work with the Province and local renter advocates to monitor the roll out of the new Provincial rules, and provide updates to Council on the impact of the new rules on Vancouver tenants and potential next steps. Staff will also continue exploring opportunities to address Council direction on renovictions and pet friendly rentals.

Should you have any questions, please do not hesitate to contact me at theresa.o'donnell@vancouver.ca.

Sincerely,


Theresa O'Donnell
General Manager, Planning, Urban Design and Sustainability

604.673.8434 | theresa.o'donnell@vancouver.ca