

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: 2018 February 12

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 4500 00
Reference: Tenant Assistance

SUBJECT: TENANT ASSISTANCE POLICY REVIEW

PURPOSE: To review and recommend amendments to the Tenant Assistance Policy.

RECOMMENDATION:

1. **THAT** the Committee recommend to Council that the Tenant Assistance Policy be amended, as outlined in Section 5.0 of this report.

REPORT

1.0 INTRODUCTION

On 2015 May 04, Council approved a Tenant Assistance Policy to support tenants facing relocation through the redevelopment of multiple-family rental properties. The policy requires submittal of a Tenant Assistance Plan with all development applications that involve demolition of rental buildings with six or more units. At a minimum, the Tenant Assistance Plan must provide a three month notice and three months' compensation to all affected tenants, as well as support in finding new accommodation and other assistance. Since the policy was adopted in 2015 May, five Tenant Assistance Plans have been implemented; six additional plans have been submitted with rezoning applications that are currently under review.

On 2016 February 22, Council approved a resolution to the Union of British Columbia Municipalities (UBCM) urging the Province to amend the *Residential Tenancy Act* to include an improved and standardized approach to tenant assistance. This resolution was endorsed by the Lower Mainland Local Government Association (LMLGA) in 2016 May and by the UBCM in 2016 September. In early 2017, the Province responded that it had no plans to make amendments to the *Residential Tenancy Act*; however, more recently, the Province has begun to review and strengthen tenancy regulations.

On 2017 March 28, the Planning and Development Committee requested that staff review the implementation of the City's Tenant Assistance Policy, as well as practices in other cities, and provide recommendations for any amendments to clarify Burnaby's policy. This report responds to that request.

2.0 TENANT ASSISTANCE IN BC

The BC *Residential Tenancy Act* establishes the rights and responsibilities of landlords and tenants. Under the *Act*, a landlord who wishes to end a tenancy in order to redevelop a rental property can only do so on certain grounds and must provide each tenant with at least two month's written notice and one month compensation. The landlord must have required permits and approvals in place prior to issuing the notice, and must abide by other provisions governing special circumstances, such as fixed-term tenancies, vacancy prior to notice date, and dispute resolution.

While the provisions of the *Residential Tenancy Act* establish a landlord's obligations to tenants, many municipalities, including Burnaby, have adopted policies to secure supplementary assistance for tenants facing relocation due to redevelopment. These municipal policies result in improved assistance for tenants. However, given the mandate and regulatory powers of the Province and, more specifically, the Residential Tenancy Branch, it is more appropriate and efficient to consolidate tenant assistance requirements within the existing provincial framework. As such, Burnaby is urging the Province to adopt an improved and standardized approach to tenant assistance that would apply uniformly across BC.

Council adopted a resolution to this effect on 2016 February 22. The resolution was endorsed at the 2016 LMLGA Conference and at the 2016 UBCM Conference, and was forwarded to the Province. In response, the Province stated, in early 2017, that it had no plans to amend the *Residential Tenancy Act*. More recently, however, as noted, the Province has taken steps to increase resources for the Residential Tenancy Branch and engage in further review of tenancy legislation and policy. If the Province were to amend the tenant assistance provisions of the *Residential Tenancy Act*, these changes would also apply within Burnaby.

3.0 BURNABY'S TENANT ASSISTANCE POLICY

Burnaby's Tenant Assistance Policy is implemented through the submittal of a Tenant Assistance Plan, which is required for all development applications that involve demolition of six or more rental units in a multi-family rental building. The policy includes specific guidelines for Tenant Assistance Plans, including:

- a written commitment to exceed the minimum requirements of the *Residential Tenancy Act*;
- documentation of the affected units, including number, size, rental rates, and existing vacancy rates;
- a plan to guide communications between the applicant and the tenants;

- a minimum of a three month notice and three months' compensation for each affected tenant;
- an offer to interested tenants to secure any available rental housing unit in the new development, or in an off-site rental housing unit managed by the same applicant;
- an offer to interested tenants to purchase an available housing unit in the new development; and
- information on other accommodation options for tenants to relocate in the same area and/or other areas.

The Tenant Assistance Plan must be completed or provided for prior to Final Adoption of the applicable rezoning bylaw. A copy of the Tenant Assistance Policy is attached as **Appendix A**.

4.0 POLICY IMPLEMENTATION

Tenant Assistance Plans have been implemented for five adopted rezoning proposals and six additional plans have been submitted with rezoning applications that are currently under review. The implemented plans have all met or exceeded policy guidelines and have been generally accepted by affected tenants. While these plans have been successful in implementing the Tenant Assistance Policy, improvements can be made, particularly in ensuring the clarity and consistency of communications and plan submittal processes.

4.1 Submitted Plans

Table 1 below outlines the five adopted rezoning proposals with implemented Tenant Assistance Plans:

Table 1: Approved projects with Tenant Assistance Plans, 2015 January 01 to present

Rezoning #	Project Name	Applicant	Address
13-14	Midori	Polygon	6592/6650 Dunblane Avenue
14-19	Sun Towers	Belford Properties	6380/6420 Silver Avenue
15-01	Imperial Metrotown	Amacon	5025 Imperial Street
15-26	Vittorio	Polygon	6668 Dunblane Avenue
15-49	Imperial + Dunblane	Transca	6695 Dunblane Avenue

The first plan (Midori, REZ #13-14) was submitted voluntarily prior to adoption of the Tenant Assistance Policy. Of the four plans submitted after the adoption of the policy, all meet City requirements and, in some instances, offer additional elements. All offer eligible tenants at least 3 months' compensation and 3 months' notice to vacate. All include documentation of existing tenancies, as well as a communications plan for updating tenants at significant points in the rezoning process. Three out of four plans provide a liaison to support tenants in finding new homes, while the fourth provides written information on housing options. All include an offer for tenants to purchase units in the proposed development; one offers tenants the option of securing a rental unit in a property owned by the applicant, either on- or off-site.

In some cases, the plans exceed policy requirements, particularly regarding monetary compensation. For instance, two of the plans provide compensation beyond the equivalent of three months' rent: one provides a three month free rental period following the notice to vacate; the other gives an additional lump sum payment based on length of tenancy.

A table outlining the components of the five plans is provided in *Appendix B*, attached.

4.2 Tenant Complaints

One complaint has been brought to the attention of staff. The complaint concerned a tenant that had moved in after the deadline for compensation. This deadline had been communicated to existing tenants in two separate letters. In the case of the subject tenant, the tenancy agreement noted that "demolition may occur in the next year," indicating that the tenant was aware that the building was subject to redevelopment. However, the agreement contained no specific mention of the ineligibility of new tenants for assistance, or other information on the Tenant Assistance Plan, as this tenant had moved in after the cut-off date. At the request of staff, the applicant entered into discussion with the affected tenant to resolve the communication issue.

This example illustrates the importance of establishing and communicating clear criteria for compensation eligibility to all tenants, eligible or not. In this and in other areas of the program, the incorporation of specific standards into the policy guidelines, rather than less formally through review of individual plans, may help to ensure consistency in the delivery of assistance to tenants. The following sections consider guidelines that may be appropriate to add to the Tenant Assistance Policy.

5.0 RECOMMENDED PRACTICES FOR TENANT ASSISTANCE PLANS

This section recommends amendments to the Tenant Assistance Policy, based on the experience to date of administering the policy and a review of practices of other Metro Vancouver jurisdictions with tenant assistance policies.

5.1 Applicability/Scope

Burnaby's Tenant Assistance Policy applies to development applications that propose the demolition of a building with at least six tenanted rental units. In general, this is consistent with practices in other municipalities, although the types of development applications in each jurisdiction vary, and some policies apply to renovations as well as demolition. In Burnaby, Tenant Assistance Plans can only be required as a condition of a rezoning application, as those are the only applications that involve discretionary review.

In all other jurisdictions, tenant assistance policies apply only to purpose-built or primary rental, rather than strata units that are rented incidentally. Although this was the intent when it was established, the wording of Burnaby's policy is unclear in this regard. It is recommended that the wording of the policy be revised so that it clearly applies only to multi-family rental buildings.

Tenant relocation most commonly occurs when buildings are demolished; however, it may also occur on sites undergoing major renovations. In these cases, if the proposed renovation would permanently displace tenants, it may be suitable to require a Tenant Assistance Plan, as the effect of the proposal would be the same as if the units were demolished. When approval is required for major renovation proposals under Comprehensive Development (CD) District zoning, the policy would be appropriate to apply.

Proposal:

- Revise the wording of the Tenant Assistance Policy to clarify that:
 - it applies on a mandatory basis to rezoning applications; and
 - it applies only to multi-family rental buildings.
- Apply the Tenant Assistance Policy to any rezoning application that permanently displaces tenants from six or more units due to demolition or major renovations of the existing rental building.

5.2 Tenant Eligibility

Under the Tenant Assistance Policy, the requirement to document the on-site units in effect determines tenant eligibility; those tenancies active when the list of occupied units is compiled receive plan benefits, and tenancies that begin after that date do not qualify. As no specific submittal date is provided in the existing policy, documentation can occur at any time prior to Public Hearing, and does not necessarily coincide with notice of compensation.

Establishing tenant eligibility immediately following Council authorization to work with the applicant on the rezoning proposal, and requiring an inventory of active tenancies at that time,

would provide a uniform and inclusive standard. Combined with similar timelines for plan submittal and notice, this would help to ensure that all existing tenancies potentially affected by redevelopment receive assistance.

Proposal:

- Establish a specific date for tenant assistance eligibility for existing tenancies, being the date of Council authorization to work with the applicant on the rezoning proposal.

5.3 Plan Submittal and Reporting

When a rezoning application requires a Tenant Assistance Plan, staff provide guidance on submittal requirements and require reporting on plan implementation. Although some templates have been supplied, plan review and guidance has generally been conducted on a case-by-case basis. Incorporating submittal timelines into the Tenant Assistance Policy and providing standardized forms for plan submittal and reporting would streamline the review process and provide greater consistency in the quality of submissions.

Proposals:

- Require submittal of the Tenant Assistance Plan within 30 days of Council authorization to work with the applicant on the rezoning proposal;
- Require submittal of a report documenting the results of the plan for the City's records; and
- Require submittals to be based on standardized forms, checklists, and templates provided by the City.

5.4 Communications Plan

In its policy guidelines, Burnaby requires each Tenant Assistance Plan to include a plan for communications between the applicants and tenants; however, the content of the communications plan is not specified. Outlining communications requirements in the policy guidelines would provide consistency in the quality of information received by tenants and help to ensure that tenants are aware of the assistance available to them.

Proposal:

- Specify that the communications plan include a commitment to:
 - Provide written notification to each affected unit, outlining the terms of the plan and confirming eligibility status;

- Provide on-site advertisement of tenant resources, such as the BC Tenant Resource and Advisory Centre (TRAC);
- As part of new rental agreements, entered into after Council authorization to work with the applicant on the rezoning proposal, include detailed information on the proposed redevelopment of the property and the ineligibility of new tenants for assistance (should the applicant choose to provide assistance to these tenants, this should also be detailed);
- Keep records of all written correspondence and notifications for one year following demolition and provide these records to the City upon request; and
- Include a communications summary in the plan implementation report recommended in Section 5.3 above.

5.5 Monetary Compensation

Burnaby's standard of compensation, equal to at least 3 months' rent, is typical of the surveyed municipalities. This level of compensation helps residents manage the costs of relocation, including moving expenses, damage deposits, and first and last months' rent on new accommodations.

As noted above, this level of compensation is three times greater than required under the provincial *Residential Tenancy Act*. The one-month compensation offered under the *Act* is viewed as inadequate, particularly for those whose current rent is low. Although municipalities have stepped in with additional assistance, an improved province-wide standard for compensation would reduce confusion and provide better outcomes for all tenants.

The timing of compensation can also affect a tenant's ability to secure new housing, as some tenants may require the additional funds to pay deposits and other initial expenses. To provide flexibility in this regard, it is recommended that compensation be made available, upon request, in the form of free rent during the three-month notice period. In cases where the tenant chooses this option, but relocates prior to the end of the three-month notice period, the balance of compensation would be paid as a lump sum. Otherwise, compensation is to be paid no later than termination of tenancy.

Proposal:

- Request that the Province amend the *Residential Tenancy Act* to include an improved and standardized approach to tenant assistance.

- Require compensation to be made available, upon request, in the form of free rent on a monthly basis, with the balance of compensation paid as a lump sum if relocation occurs prior to the end of the notice period. Otherwise, compensation is to be paid no later than termination of tenancy.

5.6 Relocation Assistance

Burnaby's guidelines require applicants to consider relocation assistance to tenants. In practice, most projects with Tenant Assistance Plans have designated a Tenant Relocation Coordinator or other contact to assist tenants in finding new accommodations and, more generally, to serve as a liaison and information resource. This approach offers greater responsiveness in meeting the individual needs of tenants than a prescribed set of criteria for new accommodations. In order to ensure that this service is provided in all projects, it is recommended that it be included in the policy guidelines.

Proposal:

- Require applicants to provide a Tenant Relocation Coordinator or other key contact to provide ongoing assistance in identifying and obtaining suitable replacement accommodations.

6.0 DISCUSSION

Burnaby's Tenant Assistance Policy has been successful in supporting tenants facing relocation from existing rental buildings undergoing redevelopment; however, the foregoing review indicates that there are improvements that can be made.

Many of the above proposals involve minor administrative changes to the program, such as revising the policy guidelines to incorporate more detailed submittal requirements and timelines. These changes are intended to improve communications between applicants and tenants and ensure that the required Tenant Assistance Plans implement the intent of the policy in a consistent manner. In addition, it is proposed to extend the scope of the Tenant Assistance Policy to include major renovations undergoing rezoning.

A revised policy, reflecting all of the recommended changes, is attached as *Appendix C*.

7.0 CONCLUSION

This report responds to the Committee's request that staff review the implementation of the Tenant Assistance Policy and provide recommendations for any necessary amendments. Specifically, this report recommends nine amendments to strengthen the existing policy and guidelines and enhance the assistance offered to tenants facing relocation due to redevelopment.

To: Planning and Development Committee
From: Director Planning and Building
Re: Tenant Assistance Policy Review
2018 February 12..... Page 9

It is recommended that the Planning and Development Committee advance the suggested amendments for the consideration of Council.

This report also recognizes that improvements to tenant assistance provisions of the *Residential Tenancy Act*, as advocated by Council, may be forthcoming, and recommends further advocacy in this regard. Any changes to provincial legislation would apply to Burnaby and may require further review of the Tenant Assistance Policy and its guidelines.



Lou Pelletier, Director
PLANNING AND BUILDING

LF/sa

Attachments

cc: City Manager
City Solicitor
City Clerk



Tenant Assistance Policy *(Current)*

Where a development application would involve six or more tenanted dwelling units within a multi-family building, and would include the anticipated demolition of the units, applicants must submit a Tenant Assistance Plan.

The submitted Tenant Assistance Plan must include:

- A written commitment to exceed the minimum requirements of the Provincial Residential Tenancy Act;
- Documentation of the on-site applicable units including the number and size of units, rental rates, and existing vacancy rates;
- A plan to guide communications between the applicant and the tenants;
- A minimum of the equivalent of three months rental payment compensation payable to each tenant relocating to compensate for moving expenses, utility reconnection fees, and relocation costs; and,
- A minimum of three months' notice provided to each tenant.

The applicant through the Tenant Assistance Plan is to provide assistance to tenants seeking alternate accommodation, by way of:

- An offer to interested tenants to secure any available rental housing unit in the new development, or in an off-site rental housing unit managed by the same applicant;
- An offer to interested tenants to purchase an available housing unit in the new development; and
- Information on other accommodation options for tenants to re-locate in the same area and/or other areas.

The Planning and Building Department will confirm that the Plan has been completed, or provided for, prior to the final adoption of the rezoning bylaw.

Adopted by Burnaby City Council 2015 May 4

Tenant Assistance Plans

Midori- REZ#13-14*	Belford - REZ#14-19	Amacon - REZ#15-01
<i>A written commitment to exceed the minimum requirements of the Provincial Residential Tenancy Act</i>		
No	Yes	Yes
<i>Documentation of the on-site applicable units including the number and size of units, rental rates, and existing vacancy rates</i>		
No	Yes, except for unit size and vacancy	Yes
<i>A plan to guide communications between the applicant and the tenants</i>		
No	Correspondence proposed after Public Hearing, Second Reading, and Fourth Reading	Correspondence proposed after Public Hearing, Third Reading, Demolition Permit Issuance and Fourth Reading
<i>A minimum of the equivalent of three months rental payment compensation payable to each tenant relocating</i>		
3 months compensation for tenants remaining until the final month of occupancy (varied among buildings), with additional compensation based on length of tenancy	3 months compensation for tenants living in the building at the time of Public Hearing	3 months compensation for tenants living in the building at the time of Public Hearing
<i>A minimum of three months' notice provided to each tenant</i>		
2 months' notice	4 months' notice	3 months' notice
<i>An offer to interested tenants to secure any available rental housing unit in the new development, or in an off-site rental housing unit managed by the same applicant</i>		
Yes	No	Yes
<i>An offer to interested tenants to purchase an available housing unit in the new development</i>		
No	Yes	Yes
<i>Information on other accommodation options for tenants to re-locate in the same area and/or other areas</i>		
No	Liaison made available to support tenants	Information on other accommodation options provided to tenants

**Provided prior to adoption of the Tenant Assistance Policy*

Tenant Assistance Plans (cont'd)

Polygon- REZ#15-26	Transca – REZ#15-49
<i>A written commitment to exceed the minimum requirements of the Provincial Residential Tenancy Act</i>	
Yes	Yes
<i>Documentation of the on-site applicable units including the number and size of units, rental rates, and existing vacancy rates</i>	
Yes	Yes, except for unit size
<i>A plan to guide communications between the applicant and the tenants</i>	
Correspondence proposed after purchase, and prior to Public Hearing, Third Reading, and Fourth Reading	Correspondence proposed prior to Public Hearing, Third Reading, and Fourth Reading
<i>A minimum of the equivalent of three months rental payment compensation payable to each tenant relocating</i>	
Minimum 3 months compensation for tenants living in the building at the time of Public Hearing, with additional compensation based on length of tenancy	3 months compensation for tenants living in the building at the time of Public Hearing ; and, three month free rental period after the notification to vacate
<i>A minimum of three months' notice provided to each tenant</i>	
3 months' notice	3 months' notice
<i>An offer to interested tenants to secure any available rental housing unit in the new development, or in an off-site rental housing unit managed by the same applicant</i>	
No	No
<i>An offer to interested tenants to purchase an available housing unit in the new development</i>	
Yes	Yes
<i>Information on other accommodation options for tenants to re-locate in the same area and/or other areas</i>	
Liaison made available to support tenants	Liaison made available to support tenants

Tenant Assistance Policy

(Proposed)

Where a rezoning application involves six or more tenanted dwelling units in a multiple family rental building, and includes the anticipated demolition or renovation of the units to the extent that tenants must permanently relocate, applicants must submit a Tenant Assistance Plan in accordance with the following guidelines.

Guidelines:

The Tenant Assistance Plan is to be provided within 30 days of Council authorization to work with the applicant on a rezoning proposal. The Tenant Assistance Plan (TAP) shall include:

- Documentation of the affected units, including the number and size of units, rental rates, and tenant information, using the form provided. All tenancies at the time of Council authorization shall be documented and provided full assistance under the TAP.
- A plan to guide communications between the applicant and the tenants, including a commitment to:
 - Provide written notification to each affected unit, outlining the terms of the plan and confirming eligibility status.
 - Provide on-site advertisement of tenant resources, such as the BC Tenant Resource Advisory Centre (TRAC);
 - As part of the rental agreement, notify replacement tenancies in writing of the proposed redevelopment of the property and their ineligibility for assistance (should the applicant choose to provide assistance to these tenancies, this should also be detailed);
 - Keep records of all written correspondence and notifications for one year following demolition and to provide these records to the City upon request; and
 - Include a communications summary in the plan implementation report.
- A commitment to provide assistance to tenants seeking alternative accommodation, by way of:
 - An offer to interested tenants to secure any available rental housing unit in the new development, or in an off-site rental housing unit managed by the same applicant;
 - An offer to interested tenants to purchase an available housing unit in the new development;
 - Information on other suitable rental accommodations; and
 - Designation of a Tenant Relocation Coordinator or other key contact to assist tenants in identifying and obtaining suitable replacement accommodations.

- A minimum of the equivalent of three months rental payment compensation payable to each tenant to compensate for moving expenses, utility reconnection fees, and relocation costs.
- A minimum of three months' notice provided to each tenant.
- If requested by the tenant, payment of compensation in the form of free rent, with the balance of compensation paid as a lump sum if relocation occurs prior to the end of the notice period.
- Otherwise, compensation is to be paid no later than a tenant's notice to vacate, either before or after the three-month notice is given.

Prior to demolition, the applicant shall provide a final report documenting the results of plan implementation, using the form provided.

The Planning and Building Department will confirm that the Plan has been completed, or provided for, prior to recommending final adoption of the rezoning bylaw.

Adopted by Burnaby City Council <date>