
TO: CITY MANAGER **DATE:** 2019 November 27

FROM: DIRECTOR PLANNING AND BUILDING **FILE:** 4500 00
Reference: Tenant Assistance

SUBJECT: REVISED TENANT ASSISTANCE POLICY

PURPOSE: To propose a revised Tenant Assistance Policy based on direction from the Mayor's Task Force on Community Housing (MTFCH).

RECOMMENDATIONS:

1. **THAT** Council approve, in principle, the revised Tenant Assistance Policy as shown in *Appendix A* and outlined in this report.
2. **THAT** Council direct staff to consult with housing stakeholders on the revised Tenant Assistance Policy, as approved in principle.
3. **THAT** Council request the provincial government to review legislation governing residential tenancies, as set out in Section 4.0 of this report.

REPORT

1.0 EXECUTIVE SUMMARY

The revised Tenant Assistance Policy is based on direction from the Mayor's Task Force on Community Housing (MTFCH) to create a robust Tenant Assistance Policy that better supports tenants impacted by displacement. The proposed policy is summarized as follows:

- applicant to help tenant secure new housing (temporary or permanent);
- tenant can move back to a unit in the completed development, at the same rent, adjusted for permitted allowable rent increases as per the *RTA* (right of first refusal);
- monetary compensation through a rent top-up or lump sum cash payment in exceptional circumstances;
- moving Assistance Options;
- special considerations for people with disabilities; and,
- compliance with policy to be secured through bonding for value of the tenant assistance compensation.

Upon Council approval in principle of the proposed Tenant Assistance Policy, the policy will come into effect immediately. Staff anticipate returning to Council with a recommendation for adoption of the final policy following consultation with housing stakeholders at a future meeting.

2.0 INTRODUCTION

On 2019 February 25, Council directed staff to pursue amendments to the City's Tenant Assistance Policy to strengthen provisions for renters impacted by displacement.

On 2019 May 27, Council adopted a rental zoning implementation framework, including a policy that requires 1:1 replacement of purpose-built rental units that are lost through development.

On 2019 July 29, Council unanimously adopted the *Mayor's Task Force on Community Housing Final Report*, which recommends 18 actions grouped under four themes as a basis for further direction and specific initiatives to increase the supply, diversity, and affordability of housing in Burnaby. The *Final Report* also lists ten "Quick Starts" – priority actions that the City can initiate within six months.

Recommendation #10 of the *Final Report* (and Quick Start #3) calls for Council to "adopt a robust tenant relocation policy." A copy of the recommendation, and a comparison of its provisions with the proposed policy, is provided in *Appendix B*.

This report provides a revised Tenant Assistance Policy that reflects the provisions outlined in Recommendation #10 of the *Final Report*. This report recommends that Council approve the revised Tenant Assistance Policy in principle and that the policy, as approved in principle, serve as the basis for consultation with rental housing stakeholders.

3.0 POLICY CONTEXT

As noted above, the *Mayor's Task Force on Community Housing Final Report* specifically recommends that the City "adopt a robust tenant relocation policy" (Recommendation #10, Quick Start #3).

There are several other City policies that support the provision of tenant assistance and affordable housing:

- Burnaby's *Official Community Plan* (1997) contains goals within its residential and social policy frameworks to help ensure that the needs of people with special and affordable housing requirements are met. This could be achieved by seeking new methods, regulations, and partnerships to encourage the development and protection of affordable and special needs housing in the City.
- The *Burnaby Economic Development Strategy* (2007) sets a goal of building a strong, liveable, and healthy community, which includes developing a diverse and affordable housing stock which is appropriate to residents' needs.

- The *Burnaby Social Sustainability Strategy* (2011) contains several actions in the area of affordable and suitable housing, including looking for opportunities to facilitate the development of housing that is supportive of, suitable, and affordable to specific target groups, such as low and moderate income households, and those experiencing mental illness, addictions, family violence, homelessness, and other challenges.

A strengthened Tenant Assistance Policy is further supported by the following goals and sub-goals of the Corporate Strategic Plan:

A Connected Community

- Partnership - Work collaboratively with businesses, educational institutions, associations, other communities, and governments.
- Social Connection - Enhance social connections throughout Burnaby.

An Inclusive Community

- Create a sense of community - Provide opportunities that encourage and welcome all community members and create a sense of belonging.

A Healthy Community

- Healthy life - Encourage opportunities for healthy living and well-being.
- Community involvement - Encourage residents and businesses to give back to and invest in the community.

A Dynamic Community

- Community development - Manage change by balancing economic development with environmental protection and maintaining a sense of belonging.

4.0 BACKGROUND

Burnaby Rental Housing Pressures

Like other Metro Vancouver municipalities, Burnaby is experiencing significant challenges with affordability and the availability of rental housing stock. Vacancy rates across the City range from 0.8 to 3.3 percent¹ and average rents of occupied one bedroom units are approximately \$1,225² per month with vacant units being advertised for substantially more.

94% of all existing purpose-built market rental units in the City were constructed prior to the 1980s³. Of Burnaby's 354 purpose-built rental buildings, 75% have less than 45 units and more than 50% have less than 20 units.⁴ Due to their age, opportunity for increased density, land value, and location, there is significant pressure to redevelop many of these sites. As a result, tenants are being displaced in a challenging rental market.

¹ CMHC Rental Market Report 2018

² CMHC Rental Market Report 2018

³ City of Burnaby, GIS Data, March 2019

⁴ City of Burnaby, GIS Data, September 2019

Tenant Assistance in BC

The *British Columbia Residential Tenancy Act (RTA)* establishes the rights and responsibilities of landlords and tenants. Under the *RTA*, 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 four months' written notice and compensation equal to one month's rent. The landlord must have obtained required permits and approvals 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 *RTA* establish a landlord's obligations to tenants, many municipalities have adopted policies to secure supplementary assistance for tenants facing displacement due to redevelopment. However, under Section 298(2) of the Local Government Act and Section 54(2) of the Community Charter, a local government is limited in its ability to require tenant assistance. Specifically, it may only require it as a condition of rezoning approval, but not of development permit, building permit, or demolition permit issuance. In addition, under the *RTA*, a landlord may issue a notice to end tenancy regardless of any local government requirements for tenant assistance. To expand tenant protections beyond the current scope, staff recommend that Council request that the Province review legislation pertaining to tenancies to address existing legislation gaps.

As understanding of tenant issues improves, some municipalities, including Burnaby, have revised their policies and developed more comprehensive programs to ensure enhanced tenant support.

Tenant Assistance Policy

On 2015 May 04, Council approved a Tenant Assistance Policy to support tenants of multiple-family rental properties who are displaced by redevelopment. The policy required submission of a Tenant Assistance Plan with all rezoning applications that involved demolition of rental buildings with six or more units. Minimum assistance requirements to tenants included a three-month notice period, three months' compensation to all tenants, as well as support in finding new accommodation and other assistance.

On 2018 March 05, Council amended the Tenant Assistance Policy. The revised policy extended its applicability to renovations that require rezoning and tenant relocation, increased compensation for tenancies of ten (10) years or longer, and provided more specific requirements for timing, notice, and documentation of assistance to tenants. On 2018 May 17, following adoption of longer notice requirements in the *RTA*, the policy was amended to require four months' minimum notice. A copy of the current Tenant Assistance Policy is *attached as Appendix C*.

Rental Replacement Policy

On 2019 May 27, Council approved a new rental policy framework to ensure the replacement and increase of rental housing in Burnaby at a variety of rent levels and affordability.⁵ The four policy

⁵ <https://eagenda.burnaby.ca/sirepub/cache/2/upwdor4g0qwdagm11zkfjmj/14758011272019092538314.PDF>

areas of the framework include rental replacement, inclusionary rental, voluntary rental housing in commercial districts, and protection of existing rental sites.

Under the rental replacement policy, redevelopment of existing rental buildings would require:

- 1:1 replacement of units, with similar mix of unit types (e.g. number of bedrooms);
- tenants to be suitably accommodated during construction; and,
- tenants to receive first right of refusal to return to the units at the same rents (with annual *RTA* rent increases) or rents 20% below Canada Mortgage and Housing Corporation (CMHC) market average rent, whichever is less.

5.0 PROPOSED POLICY

The current Tenant Assistance Policy provides a number of supports for tenants facing relocation; however, it does not sufficiently address the outcomes of tenants displaced by redevelopment or renovation. For tenants affected by displacement, the need to secure temporary housing is a primary consideration. In addition, with the adoption of the Rental Replacement Policy, the needs of many tenants impacted by redevelopment have shifted from finding permanent housing to locating temporary housing while awaiting completion of below-market replacement units.

Recommendation #10 of the *Final Report* includes new policies for temporary accommodation, as well as a range of new provisions to strengthen tenant assistance during the relocation process to improve outcomes for tenants. The revised Tenant Assistance Policy presented in this report builds on that recommendation and seeks to provide a clear, comprehensive package of assistance beginning with the initiation of rezoning and ending with occupancy of the replacement unit or renovated suite. In order to achieve consistency in its application, the proposed policy will be accompanied by an Implementation Guide with detailed information on meeting its requirements. More information on the Implementation Guide is provided in Section 6.0 below. In addition, easy to understand documents, including a brochure, will be made available to the community, as described in Section 7.0.

Principles

The proposed policy and implementation framework is guided by the following principles:

- **Affordability:** Tenants who are displaced experience modest increases to their housing expenses, allowing them to maintain their current standard of living.
- **Accessibility:** Accessibility needs are accommodated and prioritized throughout the relocation process.
- **Clarity:** Requirements are clear and comprehensive, so that both tenants and applicants know what to expect throughout the relocation process.
- **Effectiveness:** The policy is robust and ensures that the long term impacts of rezoning are minimized as much as possible.

- **Individualized Assistance:** Tenants, especially those that are vulnerable, receive individualized support throughout the relocation process.
- **Proximity:** Tenants receive supports that will help them to stay in their neighbourhoods, if possible, and maintain community connections.
- **Uniformity:** Information requirements are standardized, allowing for consistent decision making and outcome evaluation.

Applicability

The proposed policy applies to purpose-built market rental buildings with five (5) or more units that require rezoning either for renovation or redevelopment purposes. For the purpose of the policy, purpose-built market rental housing is defined as:

- private rental housing with rents determined by the market; or,
- private stratified housing required to operate as market rental housing in perpetuity by restrictive covenant or housing agreement.

The proposed threshold of five (5) units is one unit lower than the current threshold of six (6) units. This change is recommended to protect additional tenants, as well as to be consistent with the *RTA*. The proposed policy does not extend to renovations or redevelopments that require only Preliminary Plan Approval and/or Building Permit, as recommended by the MTFCH, as additional time is needed to consider the recommended approach. This could entail advocacy for provincial legislation that would expand the power of municipalities to regulate tenant assistance, or establishing a business licence process that could enforce tenant assistance in those cases.

Similarly, additional time is needed to consider tenant assistance provisions for non-market rental and co-operative housing, which presents different opportunities and constraints than market rental housing. As an interim measure, the proposed policy states that the City will work with non-profit and social housing providers to minimize the impacts of displacement on tenants in non-market rental and co-operative housing.

Lastly, the proposed policy applies not only to new rezoning applications, but also to those currently in the rezoning process. Specifically, it applies to all rezoning applications that have not yet received Second Reading by Council. This provision reflects the applicability of the Rental Replacement Policy, which extends to rezoning applications at any stage in the process. Currently, there are 26 rezoning applications representing 1,222 units that are in progress, but have not received Second Reading, that would be subject to the revised policy.

Table 1 below compares the applicability provisions of the proposed policy with those of the current Tenant Assistance Policy:

Table 1 – Applicability Provisions

Proposed Policy	Existing Policy
Applies to: <ul style="list-style-type: none"> • Purpose-built market rental buildings with ≥ 5 units • Rezoning applications for redevelopment or renovation • Applications that have not received Second Reading as of effective date of the policy 	Applies to: <ul style="list-style-type: none"> • Purpose-built market rental buildings with ≥ 6 units • Rezoning applications for redevelopment or renovation • Applications received as of effective date of the policy

Tenant Eligibility

The proposed policy revises and expands tenant eligibility for a wider-range of benefits. It moves the date of eligibility slightly earlier, to the date of rezoning application submittal, rather than the date of Council authorization to proceed. This minor change is intended to simplify the process, while making the policy more inclusive. The proposed policy also extends to all tenants eligible under the current policy, where the rezoning application has not yet received Second Reading. Those who have already received compensation under the current policy would receive additional compensation so that the sum of their benefits are consistent with the proposed policy.

The proposed policy also addresses former tenants of units that are vacant at the time of rezoning application submittal. To verify vacant units, the City will require a 24-month history of tenancies to be submitted by the applicant at time of rezoning application. This provides, at the City's discretion, right of first refusal for replacement units for tenants evicted up to 24 months prior to rezoning application submittal for the following reasons:

- landlord's use of property prior to rezoning application;
- compliance with a government order;
- tenant buy-out;
- frustrated tenancy; and,
- unit was formerly occupied by a caretaker, manager or superintendent.

In the case of tenant buy-out, and bad faith instances of frustrated tenancy, the proposed policy may provide full benefits to tenants.

The proposed policy also specifies that eligible tenants must have a legal tenancy relationship with the landlord; sub-leasing tenants are not eligible unless designated by the primary tenant(s). It also clarifies that benefits apply on a household basis. Lastly, tenants that have already received benefits under the proposed policy, and are faced with displacement from temporary accommodation, cannot receive duplicate benefits; however, they will continue to qualify for rental "top-ups" and other benefits from the original tenant assistance package.

Table 2 below compares the tenant eligibility provisions of the proposed policy with those of the current policy:

Table 2 – Tenant Eligibility Provisions

Proposed Policy	Existing Policy
<p>Eligible tenants:</p> <ul style="list-style-type: none"> • Tenants resident at the time of rezoning application submittal • Tenants eligible under the existing policy, if the rezoning application has not had Second Reading • Tenants who received buy-outs prior to rezoning application submittal • Primary tenants only, unless transferred by tenant to a sub-lessee, roommate, or other occupant not on the tenancy agreement • Tenants may only receive benefits from one landlord • Benefits applied on a household basis 	<p>Eligible tenants:</p> <ul style="list-style-type: none"> • Tenants resident at the time of initial Council action on rezoning application • Benefits applied on a household basis

Compensation

The proposed policy incorporates many of the MTFCH’s innovative recommendations on compensation, including an emphasis on temporary accommodation. It includes three main forms of compensation:

1. monetary compensation, either as a rent “top-up” on temporary accommodation or, in exceptional cases, as a lump sum cash payment;
2. moving expenses, either in-kind or as a cash payment; and,
3. right of first refusal on a replacement unit, at the same rent as their current unit, adjusted for permitted allowable rent increases as per the *RTA*.

Each of these forms of compensation are discussed in turn below.

Monetary Compensation

The proposed policy offers two primary options for monetary compensation:

- Option 1: Applicant-found housing with rent top-up
- Option 2: Tenant-found housing with rent top-up

Each eligible tenant is entitled to choose either of the above options. These options are intended to support a tenant’s ability to remain in suitable housing while their replacement units are being constructed.

In limited cases, tenants may seek alternatives to a monthly rental top-up, including, but not limited, to those who are:

- purchasing a home;
- entering an assisted living or other long-term care facility;
- entering military service;
- relocation to outside of British Columbia; and,
- relocation to a living arrangement that does not require ongoing rental payments.

In these cases, a tenant may be granted an exception and receive a lump sum payment equivalent to the value of the rent top-up for 36 months.

If a tenant chooses **Option 1**, the applicant (landlord) will present them with three suitable accommodation options. The applicant will select the preferred option and continue to pay the same rent for the temporary accommodation. Any additional rent for the unit will be paid (“topped up”) by the applicant. The tenant will be entitled to stay in the temporary accommodation, and receive the top-up, until their assigned replacement unit is available for occupancy. Should the temporary accommodation be subject to redevelopment, the applicant must repeat the process of identifying new temporary accommodation options for the tenant.

Option 1 is particularly useful for tenants who may face barriers to finding accommodation, such as tenants with disabilities, those with work schedules or family obligations that reduce available viewing times, and those with financial disadvantages.

If a tenant selects **Option 2**, they will find their own temporary accommodation and notify the applicant of their choice. The landlord will provide them with a monthly rent “top-up” up to an established cap equal to the higher of:

- CMHC Rental Market Survey (RMS) Median Rent based on RMS Zone and Bedroom Type + 30% - current rent; or,
- current rent + 15%.

The tenant will be entitled to stay in the temporary accommodation, and receive the top-up, until their assigned replacement unit is available for occupancy. Should the temporary accommodation be subject to redevelopment, the tenant may find another temporary unit, and continue to receive a top-up.

This option provides the tenant with a wider range of accommodation choices, and greater discretion in selecting their temporary home.

Table 3 below provides an example of a monthly top-up:

Table 3 – Monthly Rent Top-Up Example

	1-Bedroom	2-Bedroom
CMHC Median Rent for Metrotown Zone (“CMHC”)	\$1,186	\$1,400
CMHC + 30%	\$1,542	\$1,820
Tenant’s Current Rent	\$850	\$1,200
Maximum Monthly Top-up	\$692	\$620

With both Options 1 and 2, tenants whose heating costs are currently included in rent will be offered a heating supplement based on BC Housing’s Monthly Heat Allowance Rates.

Lastly, if a tenant successfully seeks an **exception**, they will receive a lump sum in a single payment. The amount of the lump sum will be equivalent to the benefits provided under Option 2 for a period of 36 months. 36 months is the estimated time in which temporary accommodation will be provided to tenants. Using the example provided in Table 3 above, the tenant with the one-bedroom unit would receive a lump sum equal to:

$$\$692 \times 36 \text{ months} = \$24,912$$

For tenants whose current rents are equal to or greater than CMHC Median Rent, the lump sum payment would be 15% of their current rent multiplied by 36 months. For instance, the tenant of a one-bedroom unit in Metrotown that rents for \$1,600 would receive:

$$\$1,600 \times 15\% \times 36 \text{ months} = \$8,640$$

Similar to Option 1 and Option 2, the amount of benefit will vary depending on the tenant’s current rent. As noted above, this exception is limited to tenants whose circumstances preclude the monthly rent top-up.

Moving Expenses

The proposed policy expands upon the MTFCH’s recommendation that moving expenses for tenants be paid for by the applicant, both when moving into and out of temporary accommodation. The proposed policy provides two options for moving assistance:

- provision of an insured moving company, paid by the applicant, as well as moving assistance (e.g., packing, loading) on request; or,
- financial compensation for moving expenses, ranging from \$900 to \$1,400, based on the size of unit.

These provisions ensure that the costly process of moving, which is the direct result of rezoning approval for redevelopment or renovation, is borne by the applicant rather than affected tenants. It

also ensures that tenants who require additional assistance with moving are provided the necessary support.

Right of First Refusal

Under the existing Tenant Assistance Policy, tenants are provided the right of first refusal to return to their vacated unit, in the case of renovation, to purchase or rent any new units built on the site, in the case of redevelopment.

These rights were significantly expanded with the adoption, on 2019 May 27, of the Rental Replacement Policy. That policy provides tenants of existing rental buildings the right to a new replacement unit at the same or lower rent, subject to annual RTA increases, and with the same number of bedrooms. The formula for rent in the replacement units is the lesser of:

- final rent amount at application site + RTA allowable annual rent increases for each year from the time the tenant vacates the original unit; or,
- 20% below CMHC RMS Median Market Rent based on RMS zone and bedroom type.

The proposed policy reiterates these requirements and, in its implementation guidelines, provides detailed logistical requirements for the transition from temporary accommodation to the replacement units. In addition, it preserves a tenant's right of first refusal to purchase a unit in the new development.

Table 4 – Compensation Provisions

Proposed Policy	Existing Policy
<ul style="list-style-type: none"> • Two options for temporary accommodation with rent top-up, to continue until occupancy of a replacement unit on site • Replacement unit in new development, with the same rent (+ RTA increases) and same number of bedrooms • Lump sum exception for tenants with prescribed special circumstances • Moving expenses paid or provided in-kind • Right of first refusal to buy a new unit on the site 	<ul style="list-style-type: none"> • Compensation equivalent to three months' rent for tenancies of less than 10 years • Compensation equivalent to four months' rent for tenancies of 10 years or more • Right of first refusal to rent or buy a new unit on the site

Tenants with Disabilities

The proposed policy reflects the MTFCH's recommendation to provide special consideration for tenants with disabilities, including increased notice, moving assistance, and support in finding new accommodations. To assist with this approach, the policy requires completion of a housing needs assessment for each tenant, to ensure that relocation is accomplished in a supportive manner and that temporary accommodation is suitable for tenant's needs. In addition, should a tenant note the need for an accessible replacement unit, the applicant is required to construct the units to meet the

accessibility needs expressed by the tenant. This approach departs from the existing Tenant Assistance Policy, which does not differentiate the needs of tenants.

Communications and Support

The proposed policy requires the applicant to appoint a Tenant Relocation Coordinator (TRC) to assist tenants with finding housing options, if requested, and to fulfill the requirements of the policy. A TRC is already required under the existing Tenant Assistance Policy; however, under the proposed policy and implementation guidelines, the scope of their duties are both greater and more clearly defined. Key requirements include:

- ongoing communication with tenants and Planning Department staff;
- notice requirements at each stage of the rezoning process;
- attendance, along with City staff, at a tenant meeting early in the rezoning process;
- coordination of tenant housing needs assessments; and,
- detailed reporting and accounting requirements.

Notice to vacate the premises remains at four (4) months in the proposed policy, consistent with the *RTA*, the MTFCH recommendation, and the existing policy. Given the extensive communication requirements earlier in the rezoning process, there is little value in extending the notice to vacate period.

Implementation and Privacy

To ensure support for displaced tenants throughout the development period, certain implementation measures, including bonding from the applicant, will be required. The proposed policy requires bonding to ensure that its requirements are fulfilled, particularly the monetary compensation offered in Option 1 and Option 2. The required bond amount is the equivalent of the total value of the compensation requested by tenants, and is to be held until occupancy of all replacement units has been achieved.

In addition, personal information collected from tenants in fulfillment of the proposed policy will be subject to the protections of the Freedom of Information and Protection of Privacy Act (FIPPA), as outlined in the Implementation Guide.

6.0 IMPLEMENTATION GUIDE

The proposed policy includes a companion document, the Tenant Assistance Policy Implementation Guide, which outlines detailed requirements for fulfilling each of the policy components. The Implementation Guide is intended to ensure clarity and consistency in the application of the policy. The Implementation Guide will be finalized following the recommended stakeholder consultation, and included with the subsequent Council report.

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From: Director Planning and Building
Re: Revised Tenant Assistance Policy
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7.0 COMMUNICATIONS

To ensure the benefits outlined in the proposed policy are easily understood, staff will be creating several communications documents. One of the initial documents will be a Tenant Assistance Policy brochure, which will be written in plain language, to help provide clarity to tenants as to the benefits for which they are eligible. This document will also be easily translatable into different languages to help improve understanding for individuals where English is not their first language. Additional communications with tenants and the wider community are envisioned, including a dedicated City email and phone number for tenants to reach City staff.

8.0 STAKEHOLDER CONSULTATION/NEXT STEPS

Prior to Council consideration of a final policy, it is recommended that stakeholders with different perspectives on rental housing be consulted. Consultation would consist of a series of meetings with individual stakeholders to review and receive input on the policy and guidelines. Following consultation, staff would report back and provide a recommendation to adopt the final policy.

9.0 CONCLUSION

This report responds to Council's direction for a revised Tenant Assistance Policy that strengthens protection for tenants facing displacement. The proposed policy incorporates many of the provisions outlined by the MTFCH in its *Final Report*, and reflects its emphasis on providing temporary accommodation while tenants await replacement units. This report recommends that Council approve the revised Tenant Assistance Policy in principle. It further recommends that Council direct staff to undertake stakeholder consultation on the policy, as approved in principle. If Council chooses to adopt the above recommendations, a report summarizing the results of consultation and recommending adoption of a final policy will be provided at a future meeting. Staff will monitor the progress of the Tenant Assistance Policy and report back to Council every two years, including proposed amendments, if needed.



E.W. Kozak, Director
PLANNING AND BUILDING

LF/sa
Attachments

cc: City Solicitor
City Clerk



Tenant Assistance Policy

1.0 POLICY INTENT

The Tenant Assistance Policy establishes enhanced standards for accommodating and assisting tenants of multiple family market rental buildings who are displaced from their homes as a result of major renovation or redevelopment that requires rezoning.

Additional guidance to applicants and tenants regarding this policy is detailed in the *Tenant Assistance Policy Implementation Guide (the guide)*, which should be referenced in conjunction with this document.¹

2.0 ROLE OF BRITISH COLUMBIA RESIDENTIAL TENANCY ACT

British Columbia's *Residential Tenancy Act (RTA)* regulates all tenancies in residential units across the province. It is essential for both landlords and tenants to understand their rights and responsibilities under the *RTA*.

The Tenant Assistance Policy does not replace requirements set out in the *RTA*. Instead, this policy is intended to supplement the *RTA*, establishing additional measures to mitigate challenges and concerns experienced by Burnaby renters.

3.0 APPLICABILITY

3.1 Housing Type

This policy applies to purpose-built market rental buildings with five or more dwelling units. Purpose-built market rental includes:

- private rental housing with rents determined by the market; and/or,
- private stratified housing required to operate as market rental housing in perpetuity by restrictive covenant or housing agreement.

¹ The Tenant Assistance Policy Implementation Guide will be provided to Council at time of final approval of the Tenant Assistance Policy.

This policy does not apply to non-market rental and co-operative housing.

3.2 Application Type

This policy applies to rezoning applications that impact the applicable housing type and requires tenants to be displaced due to demolition or major renovation. Building Permits that are not associated with a rezoning application are not subject to the policy.

Rezoning applications that have not received Second Reading by Council as of the effective date of this policy are subject to this policy, provided the application pertains to the applicable housing type.

3.3. Eligible Tenants

Benefits prescribed under this policy are provided on a household basis and apply to tenants named on a tenancy agreement with the landlord at the time the rezoning application is submitted to the City. In the absence of a tenancy agreement, benefits will be provided on a household basis to all tenants who reside in the affected unit.

3.4 Ineligible Tenants

The following tenants are not eligible for benefits under this policy, but may be included at the applicant's discretion:

- tenants who begin their tenancy after the rezoning application is submitted;**
- tenants who live in buildings where the rezoning application has received Second Reading by Council as of the effective date of this policy;**
- tenants who have or will be receiving benefits under this policy for another active rezoning application in which the replacement units have not received a certificate of occupancy from the City;**
- tenants who sub-lease their unit and do not have a tenancy relationship with the original landlord, unless the original tenant chooses to transfer benefits, in part or in whole, to the sub-tenant in writing; or,**
- roommates or occupants who do not have a tenancy relationship with the original landlord, unless the head-tenant chooses to transfer benefits, in part or in whole, to the roommate or occupant in writing**

Landlord obligations to tenants under the *RTA* continue to apply, even if tenants are ineligible under this policy.

3.5 Units Vacant at Time of Rezoning Application

Tenants that formerly resided in a unit that is vacant at the time of rezoning application may be eligible under this policy, if the unit is vacant for the following reasons:

- landlord's use of property prior to rezoning application;
- compliance with a government order;
- tenant buy-out;
- frustrated tenancy; or,
- unit was formerly occupied by a caretaker, manager or superintendent

For more information on vacant units, please refer to the *guide*.

4.0 TENANT ASSISTANCE

Applicants must provide tenants with the following benefits:

4.1 Relocation Assistance

A Tenant Relocation Coordinator must be hired or appointed by the applicant to assist tenants in finding alternate housing options where required, and to deliver upon the items outlined under this policy and the accompanying *guide*.

The Tenant Relocation Coordinator must be responsive to tenants, including being available to answer tenants questions on phone and email at regular and consistent hours. A dedicated email address for the Tenant Relocation Coordinator must be established and contact information for the Tenant Relocation Coordinator should be posted within the building in accessible locations frequented by tenants.

4.2 Financial Compensation

Tenants may select one of two financial compensation options, paid for by the applicant:

(1) Rent Top-Up in Applicant Secured Temporary Housing

Under this option, the applicant or Tenant Relocation Coordinator is responsible for finding three temporary housing options for tenants. Options for temporary housing should be located in Burnaby, ideally within the same quadrant of Burnaby as the tenant currently lives in, unless otherwise specified by the tenant. Options are restricted to Metro Vancouver municipalities. Transportation assistance to view temporary housing options must be provided by the applicant, if requested by the tenant.

The tenant will continue to pay their existing rent amount with any overage ("top-up") paid for by the applicant. The applicant is further responsible for payment of additional security and pet damage deposits for the temporary tenancy, above that which has been collected for the existing tenancy, if applicable.

Permitted *RTA* allowable rent increases will be calculated based on the proportion of rent paid for by the tenant and applicant. The "top-up" provided by the applicant will end the last day of the month proceeding the determined move-in date for a replacement unit, irrespective of the tenant relocating into the replacement unit.

or

(2) Rent Top-Up in Tenant Secured Temporary Housing

Under this option, the tenant chooses to find their own temporary housing at their chosen rent amount. Tenants are entitled to receive a "top-up" from the applicant, up to a maximum of the greater of the following formulas:

(Most recent CMHC Rental Market Survey (RMS) median rent for the applicable RMS zone and bedroom type + 30 percent) – current rent of tenant

OR

Current rent of tenant x 15 percent

Tenants who elect to secure their own housing are entitled to receive the rent "top-up" at the time that all remaining tenants in the application site receive a Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit, or upon City issuance of a demolition permit, whichever occurs first.

Permitted *RTA* allowable rent increases will be calculated based on the proportion of rent paid for by the tenant and applicant. The "top-up" provided by the applicant will end the last day of the month proceeding the determined move-in date for a replacement unit, irrespective of the tenant relocating into the replacement unit.

Exception:

On an exception-only basis, tenants may receive a one-time lump sum payment as compensation from the applicant, equal to the greater of the following formulas:

(Most recent CMHC Rental Market Survey (RMS) median rent for the applicable RMS zone and bedroom type + 30 percent) – current rent of tenant

OR

(Current rent of tenant x 15 percent) x 36 months

Exceptions to which tenants may receive a one-time lump sum payment will be reviewed and approved by the Director of Planning and Building and may include, but are not limited to, the following reasons:

- purchasing a property;
- entering assisted living or other long-term care facility;
- entering military service;
- relocation to outside of British Columbia; or,
- relocation to a living arrangement that does not require ongoing rental payments.

Documentation must be provided to the City to verify exception requests prior to approval.

4.3 Heating Supplement

If a tenant was displaced from a unit where heating costs were included in the rent and selects a temporary housing unit that is not inclusive of heating costs, the applicant must provide a monthly heating supplement to the tenant in accordance with BC Housing's Monthly Heat Allowance Rates.

4.4 Moving Assistance

Tenants may select one of two moving assistance options, provided on a household basis, paid for by the applicant:

1. An insured moving company arranged by the applicant
 - To include boxes and/or packing assistance, if requested
 - Only available to tenants relocating within Metro Vancouver

or

2. A flat rate payout, based on existing bedroom type, of \$900 for studio or one-bedroom units, \$1200 for two-bedroom units, and \$1,400 for three bedroom or larger units

4.5 Replacement Unit

Under the Rental Replacement Policy, tenants are eligible for the right of first refusal for a replacement rental unit in the redeveloped building. At a minimum, tenants will be offered a replacement unit that has the same number of bedrooms as the unit they formerly had at the application site. Where tenants have identified accessibility requirements in their Household Needs Assessment, the applicant must construct units in accordance with the tenant's accessibility needs.

In perpetuity, rents paid by tenants in replacement units are to be the lesser of the following formulas:

Final rent amount at application site + RTA allowable rent increases in intervening years since vacating application site

OR

Most recent CMHC Rental Market Survey (RMS) median rent for the applicable RMS zone and bedroom type – 20 percent

Tenants are to be provided the same moving assistance options outlined in Section 4.4 to move into the replacement unit.

5.0 IMPLEMENTATION

5.1 Tenant Compensation Selection

As of the effective date of this policy, the applicant must not enter into any compensation agreement with tenants until a City-attended group tenant meeting has occurred. Tenants are to communicate their selected benefit options directly to the City.

5.2 Bonding

To ensure compensation obligations are fulfilled, bonding from the applicant is required.

The applicant must provide a cost estimate of all tenant assistance benefits to the City prior to Final Adoption of the rezoning bylaw. After review, the City will require bonding in the determined amount, plus a 1% Administration Fee (plus GST), to be submitted to the Planning Department by certified cheque or irrevocable Letter of Credit.

The bonding will be released upon review and approval of the final report prepared after all replacement units have been occupied by the Director of Planning and Building

6.0 COMMUNICATION AND REPORTING

Applicants and/or Tenant Relocation Coordinators are expected to be in regular communication with tenants and support tenants throughout the relocation process. Applicants and/or Tenant Relocation Coordinators are further expected to be in regular communication with the City of Burnaby's Planning Department, which will provide oversight on all tenant assistance activities.

Please refer to the *Tenant Assistance Policy Implementation Guide* for detailed information on document submission and meetings required as part of this policy.

6.1 Group Tenant Meeting

Within 60 days of Council authorizing Planning Department staff to work with the applicant, the applicant must convene a meeting with all tenants in the building to introduce the Tenant Relocation Coordinator, answer tenant questions, provide and explain the Household Needs Assessment form, and obtain consent for City staff to contact tenants and use their information to monitor implementation of the Tenant Assistance Policy. City staff must be present at this meeting.

6.2 Tenant Assistance Plan

The following documents, which together comprise the Tenant Assistance Plan, must be submitted to the City at the following intervals:

At submission of rezoning application:

- Documentation of all units in the building, including vacant units, including the size and bedroom type, rental rates, tenancy information, and other pertinent information in the approved forms
- Signed Freedom of Information and Protection of Privacy Act compliance form

Within two months of Group Tenant Meeting:

- Household Needs Assessment

With demolition permit application:

- Confirmation of benefits selected by tenants

Within one month of the building being vacant or prior to Final Adoption of rezoning bylaw:

- Tenant Relocation Report

Two months prior to occupancy of replacement units:

- Status Report of Impending Moves into Replacement Units

One month after occupancy of replacement units:

- Final report of New Tenancies in Replacement Units

6.3 Freedom of Information and Protection of Privacy Act

To protect tenants' private information, all information received by the applicant and the City must be administered in compliance with the Freedom of Information and Protection of Privacy Act.

Approved in principle by Burnaby City Council on _____
Approved by Burnaby City Council on _____

**Comparison Between Mayor's Task Force on Community Housing Recommendation and
Proposed Tenant Assistance Policy**

DEVELOPMENT TYPE	RECOMMENDATION	PROPOSAL
Demolition (Rezoning)	Tenants are provided right of first refusal for a replacement unit	✓
	Tenants are provided priority placement in unclaimed replacement units on other properties	Requires further analysis
	Tenants are provided temporary accommodation	✓
	Applies only to tenants who are resident at the time of initial Council action on a rezoning application (not subsequent tenancies)	✓
	Applies to all buildings with six or more units	✓✓ Applies to all buildings with five or more units
Renovation (Rezoning)	Tenants are provided temporary accommodation	✓
	Tenants are provided with right to return to the same unit at the same rent (subject to RTA increases) and under the same rental agreement	✓
	Applies to all renovations that are in buildings with six or more units	✓✓ Applies to all buildings with five or more units
	Applies to all renovations that require tenants to vacate the unit(s) and require a building permit	City does not have legal authority outside of applications for rezoning
	Enforced through business licence process (e.g. City of New Westminster approach)	Requires further analysis

Notice	Four (4) months	✓
Temporary Accommodation	Provided at “swing sites” developed through public-private partnerships; or	Requires further analysis
	Provided in private market, with developer providing rental “top-ups” to cover rent beyond current rates	✓
	“Top-up” shall be equal to the difference between existing rent and rent for temporary accommodations, up to an established cap (e.g., CMHC Average Market Rent + 20%)	✓✓ Established cap is CMHC median rent + 30%
	Unit must be suitable in size, number of bedrooms, and accessibility	✓
	Temporary accommodation benefits do not apply retroactively to tenants who have received monetary compensation under the current Tenant Assistance Policy	✓
Tenants with Disabilities	Special consideration is to be given to tenants with disabilities, including increased notice, moving assistance, and support in finding new accommodations	✓✓ Replacement unit has to be constructed to meet accessibility needs of tenant
Moving Assistance	Developer to pay moving expenses for all tenants (to a maximum of \$750 for units with <1BD and \$1000 for units with >2BD). Expenses shall also be paid for the move from temporary to permanent accommodations.	✓✓ Moving expenses payout range from \$900 to \$1,400
	Tenants can postpone moving in case of inclement weather (e.g., snow, ice)	✓



Tenant Assistance Policy

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. For tenants resident in a unit for at least ten years, a minimum of four months' rental payment compensation is required.
- A minimum of four 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 2018 March 05
Amended 2018 May 17