

REPORT

Planning and Development

To: Mayor Johnstone and Members of Council
Date: September 9, 2024

From: Jackie Teed, Director,
Planning and Development
File: #2531234

Item #: 2024-499

Subject: Response to Council Motion Regarding “Tenant Protections”

RECOMMENDATIONS

1. **THAT** Council direct staff to update the City’s Tenant Relocation Policy using Burnaby’s Tenant Assistance Policy as a model to provide greater support for tenants who may be displaced from their homes, including through redevelopment.
 2. **THAT** Council direct staff to pause work related to the Homelessness Needs Assessment in order to prioritize work on updating the City’s Tenant Relocation Policy.
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PURPOSE

The purpose of this report is threefold: (1) to provide an update on the Council motion regarding “Tenant Protections,” which calls for an update to the City’s Tenant Relocation Policy using Burnaby’s Tenant Assistance Policy as a model; (2) to propose next steps for undertaking the work in question and to detail related work program implications; and (3) to outline possible financial implications.

EXECUTIVE SUMMARY

On June 10, 2024, Council directed staff to update the City’s Tenant Relocation Policy using Burnaby’s Tenant Assistance Policy as a model. This motion was in response to new Provincial housing legislation which increased allowable densities around transit stations. This legislation, under favourable economic conditions, could make some sites, including those accommodating older and more affordable rental housing units, more attractive for redevelopment.

As directed by Council, staff will engage Burnaby staff to better understand their policy, including what is and is not working well; potential unintended consequences; lessons learned; and financial and staffing implications; among other considerations. Staff will prepare an analysis based on this engagement and present back to Council for consideration and direction. Based on any direction received, staff will update the policy and prepare a bylaw for Council’s consideration and possible endorsement.

To prioritize this work, staff is recommending that work on the Homelessness Needs Assessment, which was scheduled to commence during the third and fourth quarters of 2024 be rescheduled to commence during the second or third quarter of 2025.

BACKGROUND

Council Motion

At the June 10, 2024 Regular Meeting, Council endorsed the following motion related to tenant protections:

WHEREAS new Provincial legislation is creating a path for increased development density around transit areas which will impact many more affordable New Westminster neighbourhoods due to our abundant transit services; and

WHEREAS Bill 16 (Housing Statutes Amendment Act) allows municipalities to enact tenant protection bylaws related to redevelopment, including within transit-oriented areas; and

WHEREAS tenants—especially those in older and more affordable rental housing—may be disproportionately impacted due to this new development; and

WHEREAS New Westminster has previously shown leadership in protecting vulnerable renters with strong actions to curtail demoviction and renoviction; and

WHEREAS the regional housing market is reaching new levels of crisis, increasing the risk that existing tenants will lose access to adequate housing through displacement related to redevelopment;

THEREFORE BE IT RESOLVED THAT the City of New Westminster update our tenant protection and relocation policies, using Burnaby’s as a model to provide support for tenants who may be displaced from their homes, including by redevelopment.

ANALYSIS

The Current Situation

New Westminster has the third largest purpose-built market rental housing stock in Metro Vancouver. Currently, there are 10,284 units in 311 buildings, with over 80% of buildings being constructed prior to 1970. This stock provides important and more

affordable market rental housing due to its age and because many existing tenants have maintained long-term tenancies where rent increases have been controlled by provisions under the *Residential Tenancy Act (RTA)*.

New Provincial Housing Legislation and Transit-Oriented Areas

In fall 2023, the Province passed several significant amendments to the *Local Government Act* to enable local governments to increase development densities and address the housing crisis in BC. One significant change was to establish transit-supportive densities adjacent to transit stations through the Transit-Oriented Development (TOD) legislative framework. The City's Transit Oriented Development Areas [webpage](#) and [guide](#) contain detailed information on the new legislation.

Impacts on Older, Purpose-Built Market Rental Housing

Through the TOD legislation, the City is required to designate all land within 800 metres of SkyTrain stations as TOD areas. Within these TOD areas, the Province introduced a Minimum Allowable Density framework, which establishes allowable densities and building heights that the City must consider when exercising their zoning authority in relation to rezoning applications or amendments to zoning bylaws.

Under favorable economic conditions, the increased allowable density could make sites more attractive for redevelopment. However, the TOD area regulations do not change the existing rezoning process (e.g., application fees, submission requirements, staff review, etc.) or the ability to establish certain conditions of rezoning approval (e.g., tenant protections, rental replacement, etc.). Applications that align with the Provincially-mandated height and density must also demonstrate alignment with other City policies to receive support.

City of New Westminster Rental Protection Policies and Initiatives

The City has shown leadership in its commitment to preserving its older, purpose-built and more affordable market rental housing stock, and protecting the tenants who live within these rental units. The City's strategic direction, policies and initiatives to retain rental properties and protect tenants are summarized in attachment 1. In 2015, the City developed its Tenant Relocation Policy. While this policy was considered a best practice at the time, other municipalities have since developed policies which offer greater assistance and compensation, and in some cases, replacement housing. The key components of this policy are summarized in attachment 2.

City of Burnaby's Tenant Assistance Policy

The City of Burnaby's Tenant Assistance Policy is cited as one of the more progressive in Canada in accommodating and assisting tenants of multi-family market rental buildings who are displaced from their homes due to redevelopment or renovation that requires rezoning. Compared to the City of New Westminster's current policy, strengthened tenant protection elements include:

- Enhanced financial support for moving and help with arranging, if requested.
- Enhanced financial compensation in the form of rent top-up payments or a lump sum payment, to bridge the gap between current rents and market rents.
- Right to return to the redeveloped building at the same rent (plus any Residential Tenancy Act rent increases) in a unit with the same number of bedrooms.

ANALYSIS

Bill 16 - Tenant Protection Bylaws

The Province has anticipated that additional tenant supports will be required where redevelopment of purpose-built rental housing is proposed. In April 2024, the *Local Government Act* was amended to give municipalities the authority to develop tenant protection bylaws to require developers to provide added support for tenants facing displacement in cases of redevelopment. This includes financial assistance, moving assistance, support to find a new place to live, or the right to enter into a new tenancy agreement with the owner in another building. This new authority to develop tenant protection bylaws is intended to ensure that municipalities can densify while minimizing negative impacts to existing tenants impacted by redevelopment.

Precedent for the Need to Strengthen the City's Current Policy

In 2023, as part of an Official Community Plan (OCP) amendment and rezoning application review at 909-915 Twelfth Street, staff identified that the City's current Tenant Relocation Policy (2015) is eight years old and due for an update. Accordingly, staff undertook a review of tenant relocation policies from other municipalities to inform the approach at the subject property and to inform a potential future update to City's policy. Based on this review, staff facilitated a 'middle-of-the-road' approach that offers significantly more protection for tenants than the City's current policy. The interim approach, which is described in more detail in attachment 2, improved on the 2015 policy in that it offered greater financial compensation by increasing lump sum payments and providing for moving expenses. It also captured a greater set of renters in the city as it applied to buildings with fewer than six residential units.

DISCUSSION

Proposed Next Steps

To explore opportunities to update the City's Tenant Relocation Policy, staff propose the following next steps:

- to engage City of Burnaby staff to better understand their policy, including what is and is not working well, potential unintended consequences, lessons learned, and financial and staffing implications, among other considerations;

- to prepare an analysis based on this engagement, including identifying areas for possible further exploration, and to present back to Council for consideration and direction;
- to conduct further review and analysis if directed; and,
- to bring back an updated policy and bylaw for Council's consideration and possible endorsement.

Work Program Implications

An update to the City's Tenant Relocation Policy was already a work program item; however, its development was not scheduled to commence until the second or third quarter of 2025. Prioritizing this work will mean pausing other Social Planning work program items. After a review, staff are recommending that the Homelessness Needs Assessment, which was scheduled to commence during the third and fourth quarters of 2024 be rescheduled to commence during the second or third quarter of 2025

FINANCIAL IMPLICATIONS

The only financial implications in conducting this work is staff time. If further review and analysis is required, particularly if related to conducting work (e.g., an economic analysis) which cannot be undertaken by staff, then there could be financial implications. If this is the case, staff will seek Council endorsement to approve any funding request(s).

OPTIONS

The following options are presented for Council's consideration:

1. That Council direct staff to update the City's Tenant Relocation Policy using Burnaby's Tenant Assistance Policy as a model to provide greater support for tenants who may be displaced from their homes, including through redevelopment.
2. That Council direct staff to pause work related to the Homelessness Needs Assessment in order to prioritize work on updating the City's Tenant Relocation Policy.
3. That Council provide staff with other direction.

Staff recommends options 1 and 2.

ATTACHMENTS

- Attachment 1: The City's Strategic Direction, Policies and Initiatives to Protect Rental Properties and Tenants
- Attachment 2: Summary of the Key Components of the City of New Westminster Tenant Relocation Policy (2015)

APPROVALS

This report was prepared by:
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This report was reviewed by:
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John Stark, Manager, Community Planning
Serena Trachta, Acting Director, Planning and Development

This report was approved by:
Lisa Spitale, Chief Administrative Officer

Attachment 1

Strategic Direction, Policy and Initiatives to Protect Rental Properties and Tenants

Strategic Direction

Council Strategic Priorities Plan: 2023-2026

The *Council Strategic Plan: 2023-2026*, under the Homes and Housing Options focus area, includes the following key objectives:

- Implement policies and procedures to further support the delivery and maintenance of homes that meet our community's diverse needs.

The Homes and Housing Options focus area also includes the following key objective:

- *Policy Alignment:* Update housing policy to protect existing rental housing and maximize delivery of new housing that meets identified needs.

Official Community Plan (2017)

The *Official Community Plan* includes the following goal:

- New Westminster's neighbourhoods are great places to live and have diverse housing choices that meet the needs of the community.

The *Official Community Plan* includes the following policy under Section 8, Housing:

- Policy 8.2 - Facilitate access to affordable and non-market housing for low-to moderate-income households.

Specifically, this project aligns with Actions 8.2b and 8.2c

- Action 8.2b - The City should continue to implement the Affordable Housing Strategy.

Affordable Housing Strategy (2010)

The *Affordable Housing Strategy* (2010) contains the following two goals:

1. To preserve and enhance New Westminster's stock of safe, appropriate and affordable rental housing.

Specifically, the AHS identified a strategic direction as follows:

Strategic Direction # 2: Limit the loss of existing affordable rental housing.

Tenant Protection Policies and Initiatives

Negotiated Tenant Protection at Redevelopment (2022)

- At time of rezoning, the City has been negotiating added tenant protection measures to ensure that existing tenants do not become unhoused as a result of redevelopment. This includes negotiating provisions for temporary accommodation during the redevelopment and for their return to the new rental unit under comparable terms of the existing tenancy agreement.

Addressing Renovictions (2017)

- City actions to address renovictions since 2017 include:
 - a motion to UBCM to urge the provincial government to amend the Residential Tenancy Act (RTA);
 - a Renovictions Action Plan (2018) that outlines City actions to respond to renovictions (information on tenant' rights and responsibilities, working with/supporting tenants, partnering with the Tenant Resource and Advisory Centre (TRAC) and the New West Tenants Union (NWTU) and more); and,
 - the 2019 Business Regulations and Licensing Amendment Bylaw (Part 6) to deter owners of purpose built rental buildings from evicting tenants for renovations where eviction is not essential to permit the work to proceed.
- The City's 2019 Business Regulations and Licensing Amendment Bylaw (Part 6) was repealed after the Province introduced new legislation on July 1, 2019 that amended the RTA for the purpose of addressing renovictions by requiring landlords to apply for dispute resolution to obtain an Order to End Tenancy and an Order of Possession of the units prior to displacing tenants.
- While the new RTA legislation appears to be effective in stopping renovictions, it does not provide for tenant relocation or have provisions to control rent upon return to the unit. Both of those protections were including in the City's Part 6 regulations but now no longer exist. As such, staff continue to be proactive in sending information to tenants on their rights and responsibilities under the RTA when they become aware of potential misinformation or concerns raised by tenants.
- The City also created a staff position, Tenant Support Coordinator, as part of the Integrated Services Team.

New Westminster Rent Bank Program (2017)

- Provides low-cost loans to residents who are at risk of eviction or disconnection of essential utilities due to a temporary or unexpected financial crisis. City has contributed \$35K/year since the inception in 2017 to support the rent bank.

Tenant Relocation Policy (2015)

- Applies to rezoning applications and Heritage Revitalization Agreements which involve the demolition of 6 or more purpose-built market rental housing units and offers additional compensation, as well as assistance, to tenants beyond what is provided for under the Residential Tenancy Act.

Tenant Displacement Policy (2011)

- Applies when tenant displacement is due to City action on a property with serious life-safety, fire, policing or community concerns. The policy outlines procedural guidelines, recognizing that tenants in these properties often need a greater level of assistance in finding alternate housing that is safe, appropriate and affordable.

Rental Protection Policies and Initiatives

Draft Rental Replacement Policy (2019)

- Interim policy to ensure that redevelopment of older purpose-built market rental buildings does not lead to loss of affordable rental housing thereby displacing existing tenants. Includes provision to add to the supply of rental and below-market rental in New Westminster.

The draft policy applies to all existing purpose-built market rental housing sites where redevelopment will remove more than 6 rental units. Applicants seeking rezoning are expected to provide 100% of the secure market rental units including 10% of total units secured as below-market rental units.

Rental Tenure Zoning (2018)

- The Province enacted rental tenure zoning authority in July 2018. It empowers local governments to apply this zoning to protect rental units in existing or future apartment buildings. The zoning restricts the form of tenure (i.e. occupancy of the unit) to rental only, so residential units with this zoning cannot be occupied by the owner. The units can be sold, but must remain as rental.

In January 2019, New Westminster City Council adopted Zoning Amendment Bylaw No. 8078, 2019, making it the first municipality in the province to apply the newly granted residential tenure zoning powers to some of its existing rental housing stock. It was applied to six stratified rental buildings and 12 City-owned properties to protect 250 households whose tenancies were not adequately protected with any of the other existing legislative tools found in the Local Government Act and the Community Charter.

Secure Market Rental (2017)

- Directs the implementation of a number of financial incentives and bylaw relaxations that are targeted towards the retention and renewal of the existing purpose-built market rental housing stock and the creation of new rental housing stock.

Moratorium on Strata Conversion (1970)

- In 1978, City Council placed a moratorium on the conversion of rental units to strata title units. This has been in place for more than 40 years, and remains an effective means for protecting existing rental stock.

Attachment 2

Summary of the Key Components of the Tenant Relocation Policy (2015)

Summary of the Key Components of the Tenant Relocation Policy

<p>Application</p>	<ul style="list-style-type: none"> • Applies where the City has negotiation rights through Rezoning applications and Heritage Revitalization Agreements that involve the demolition of six or more purpose built market rental housing units within a multi-family building, or that involve the anticipated demolition of such units. • Applies on a voluntary basis for Development or Demolition Permits.
<p>Requirements</p>	<ul style="list-style-type: none"> • Where the Policy applies, applicants are required to: <ul style="list-style-type: none"> ○ include a Tenant Assistance Plan as part of the preliminary report on the application to the City’s Land Use and Planning Committee; ○ submit evidence that the Tenant Assistance Plan has been communicated to the tenants prior to the bylaw being forwarded for First and Second Readings; and, ○ demonstrate that the tasks in the Tenant Assistance Plan have been complete satisfactorily prior to receiving a Demolition Permit. • Prior to the issuance of a Demolition Permit for the property to be redeveloped, the applicant must provide a signed letter indicating that all of the commitments within the Tenant Assistance Plan have been satisfactorily met.
<p>The Tennant Assistance Plan</p>	<ul style="list-style-type: none"> • A key component of the Policy to provide enhanced assistance beyond that of the <i>Residential Tenancy Act</i> for tenants displaced from their homes due to redevelopment. • Key pillars of the current Tenant Assistance Plan include: <ul style="list-style-type: none"> ○ written commitment to provide at least four months’ notice prior to eviction; ○ written commitment to provide compensation equal to or greater than the equivalent of three-months’ rent to compensate for moving expenses, utility reconnection fees and other relocation costs; ○ documentation of the on-site applicable units, including the number of units (by bedroom type), rental rates and existing vacancy rates; ○ a strategy for assisting tenants in finding appropriate housing; and, ○ a plan to guide communications between the applicant and the tenants, including notice of all consultation events related to the application.

<p>2023 Interim Tenant Protection Approach</p>	<ul style="list-style-type: none">• In 2023 as part of an Official Community Plan (OCP) amendment and rezoning application review at 909-915 Twelfth Street, staff facilitated an interim tenant protection approach that improved on the 2015 policy by:<ul style="list-style-type: none">○ Applying to all market rental units on site (not just market rental buildings with six or more units);○ Requiring that assistance be provided by a Tenant Relocation Coordinator;○ Defining and requiring flat rate for moving support as \$750 (bachelor & 1 bed), \$1000 (2 bed) and, \$1250 (3+ bed); and,○ Requiring lump sum payments of three to six months' based on length of occupancy and calculated on the basis of CMHC average rents for New Westminster.
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